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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARL F. HARRISON,  
Plaintiff,  
v.  
LINDE, et al.,  
Defendants.

No. 2:13-cv-1510 KJM CKD P

ORDER

This pro se prisoner action brought pursuant to 42 U.S.C. § 1983 proceeds against defendants Linde and Simpson. (See ECF No. 46.) Discovery is proceeding until December 6, 2013. (ECF No. 49.) Before the court are several pending motions by plaintiff, most of which concern discovery issues. Defendants have so far opposed one such motion, arguing that it is premature. As no further briefing is necessary, the court addresses all pending motions herein.<sup>1</sup>

I. Discovery Motions

On September 23, 2013, plaintiff filed a motion to compel discovery, arguing that defendants failed to answer numerous discovery requests, which he attached to the motion. (ECF

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<sup>1</sup> In addition to the motions addressed herein, plaintiff recently filed three duplicative motions. (ECF Nos. 60, 61, 62.) As these motions appear to have been erroneously filed twice, they will be disregarded.

1 No. 52.) On October 7, 2013, defendants filed an opposition, arguing that the motion should be  
2 denied as premature because the deadline for defendants' response had not yet passed.

3 Defendants further stated that they had not received two sets of plaintiff's attached discovery  
4 requests, which were not accompanied by proofs of service, and that defense counsel had written  
5 to plaintiff offering to respond to this discovery if and when it was propounded. (ECF No. 56.)  
6 As defendants' arguments have merit, this motion will be denied as premature.

7 On November 7, 2013, plaintiff filed a second motion to obtain discovery. (ECF No. 58.)  
8 The motion consists of a list of information he would like defendants to provide. Plaintiff is  
9 informed that court permission is not necessary for discovery requests and that neither discovery  
10 requests served on an opposing party nor that party's responses should be filed until such time as  
11 a party becomes dissatisfied with a response and seeks relief from the court pursuant to the  
12 Federal Rules of Civil Procedure. Discovery requests between the parties shall not be filed with  
13 the court unless, and until, they are at issue. Accordingly, this motion will be denied.

14 Also on November 7, 2013, plaintiff filed a motion "to have defendants answer the . . .  
15 questions they failed to answer" in certain interrogatories propounded by plaintiff. Plaintiff  
16 asserts that defendants responded to these interrogatories on October 23, 2013, but he fails to  
17 attach their responses. Plaintiff also seeks to propound additional interrogatories. (ECF No. 59.)  
18 Plaintiff has provided no record of what objections defendants made to his requests and has failed  
19 to carry his burden to show why their responses are inadequate. See Williams v. Cate, 2011 WL  
20 6217378 at \*1 (E.D. Cal. Dec. 14, 2011) ("Plaintiff bears the burden of informing the Court . . .  
21 for each disputed response, why Defendant's objection is not justified. . . . Plaintiff may not  
22 simply assert that he has served discovery responses, that he is dissatisfied, and that he wants an  
23 order compelling further responses."), citing Ellis v. Cambra, 2008 WL 860523 at \*4 (E.D. Cal.  
24 Mar. 27, 2008); see also Cal. Rules of Court, Rule 3.1345 (party moving to compel discovery  
25 responses must include reasons why further answers should be ordered: legal or factual arguments  
26 why the answers given were incomplete or nonresponsive, or the objections invalid). Thus this  
27 motion to compel will be denied. The court declines at this time to grant plaintiff leave to serve  
28 additional interrogatories beyond the limit set forth in Rule 33(a)(1) of the Federal Rules of Civil

1 Procedure.

2 II. Motion for Injunctive Relief

3 On October 2, 2013, plaintiff filed a motion seeking an order directing the Warden of  
4 California State Prison, Corcoran to allow him “to make legal copies in excess of 100 pages.”  
5 (ECF No. 55.) He asserts that prison law library staff’s failure to make the desired number of  
6 copies has resulted in his being unable to file a proposed amended complaint. He further  
7 complains that the process for obtaining approval to make copies takes too long. Plaintiff has  
8 made previous requests for an order directing prison officials to supply him with legal materials  
9 and/or services. These have been denied. (See ECF Nos. 16, 46.)

10 As set forth in this court’s order of February 25, 2013, an inmate has a constitutionally  
11 protected right of meaningful access to the courts. Bounds v. Smith, 430 U.S. 817, 820-821  
12 (1977). To prevail on a request for relief, however, it is not enough for an inmate to show some  
13 sort of denial: he must also show “actual injury” from the denial or delay of services.” Lewis. v.  
14 Casey, 518 U.S. 343, 351 (1996). Here, plaintiff has not shown actual injury from the alleged  
15 denial of services. Moreover, the court lacks jurisdiction over the Warden and/or prison law  
16 library staff, as they are not defendants in this action. See Zenith Radio Corp. v. Hazeltine  
17 Research, Inc., 395 U.S. 100 (1969). Plaintiff cannot, by this motion, enjoin persons who are not  
18 defendants in the underlying action, based on claims that are not set forth in the operative  
19 complaint. Accordingly, plaintiff’s motion for injunctive relief will be denied.<sup>2</sup>

20 III. Limiting Order

21 Plaintiff’s filing of frivolous motions is a burden on this court and impedes the proper  
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23 <sup>2</sup> Local Rule 302 of the Eastern District of California authorizes magistrate judges to handle all  
24 aspects of a prisoner’s case short of jury trial. This rule reflects the contours of magistrate judge  
25 authority established by Congress. Pursuant to Section 636, Title 28, United States Code,  
26 magistrate judges may determine any pretrial matter unless it is “dispositive” to the action, see  
27 United States v. Raddatz, 447 U.S. 667, 673 (1980), or seeks injunctive relief of the same  
28 character as that which may be finally granted by the action, see De Beers Consolidated Mines,  
Ltd. v. United States, 325 U.S. 212, 219-200. See 28 U.S.C. § 636(b) (1)(A). As plaintiff seeks  
injunctive relief unrelated to defendants Linde and Simpson’s alleged interference with plaintiff’s  
appeal of his criminal conviction in 2009, his motion is properly before the undersigned for  
disposition by order. (See ECF No. 36 .)

1 prosecution of this action. Plaintiff's future filings shall therefore be limited as set forth below.

2 Accordingly, IT IS HEREBY ORDERED THAT:

3 1. Plaintiff's September 23, 2013 motion to compel discovery (ECF No. 52) is denied;

4 2. Plaintiff's October 2, 2013 motion for law library access (ECF No. 55) is denied;

5 3. Plaintiff's November 7, 2013 motion for discovery (ECF No. 58) is denied;

6 4. Plaintiff's November 7, 2013 motion for additional interrogatories (ECF No. 59) is  
7 denied;

8 5. Plaintiff may only file the following documents:

9 a. One dispositive motion, limited to one memorandum of points and authorities  
10 in support of the motion and one reply to any opposition;

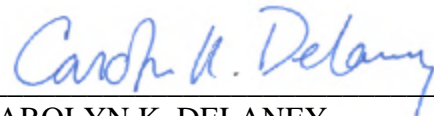
11 b. One opposition to any motion filed by defendants (and clearly titled as such);

12 c. Only one non-dispositive motion pending at any time. Plaintiff is limited to  
13 one memorandum of points and authorities in support of the motion and one reply to any  
14 opposition; and

15 d. One set of objections to any future findings and recommendations.

16 Failure to comply with this order shall result in improperly filed documents being stricken  
17 from the record and may result in a recommendation that this action be dismissed.

18 Dated: November 18, 2013



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20 CAROLYN K. DELANEY  
21 UNITED STATES MAGISTRATE JUDGE

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