

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH B. GIBBS,
Plaintiff,
v.
WARDEN MACCOMBER, et al.,
Defendants.

No. 2:15-cv-0061 KJM CKD P

ORDER

Plaintiff, a state prisoner, proceeds pro se with a civil rights complaint filed pursuant to 42 U.S.C. § 1983. Pending before the court are two motions filed by plaintiff on the same date. ECF Nos. 75, 76.

The first motion, styled as a motion to compel, requests that defendants be ordered to provide plaintiff with a free copy of his deposition transcript from July 10, 2017. ECF No. 75 at 1. Federal Rule of Civil Procedure 30(f)(3) provides that, “the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.”

Although plaintiff was granted leave to proceed in forma pauperis in this case, it is well established that “the expenditure of public funds [on behalf of an indigent litigant] is proper only when authorized by Congress.” Tedder v. Odel, 890 F.2d 210, 211 (9th Cir.1989) (quoting

1 United States v. MacCollom, 426 U.S. 317, 321(1976)). The expenditure of public funds for
2 deposition transcripts is not authorized by the in forma pauperis statute or any other statute. See
3 28 U.S.C. § 1915. Plaintiff's request for a copy of the deposition transcript free of charge is
4 therefore denied.

5 In his second motion, plaintiff requests a thirty day extension of time to comply with this
6 court's October 10, 2017 order to supplement his interrogatory responses related to his claims for
7 compensatory and punitive damages. ECF No. 70. In support of this request, plaintiff asserts that
8 he does not have access to his property or legal materials due to his transfer to California State
9 Prison-Los Angeles County. ECF No. 76 at 1. Plaintiff also indicates that United States
10 Magistrate Judge Paul L. Abrams has already ordered CDCR officials to provide plaintiff with
11 access to his legal property. Id. The court will grant plaintiff one last extension of time pursuant
12 to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure for good cause shown. In addition, the
13 court will sua sponte modify the pending discovery and scheduling order governing the deadlines
14 for filing any additional motions to compel discovery and for filing dispositive motions as
15 outlined below.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's motion to compel, ECF No. 75, is denied; and,
- 18 2. Plaintiff's motion for an extension of time to supplement his interrogatory responses,
19 ECF No. 76, is granted;
- 20 3. Plaintiff is required to fully respond to Interrogatory Numbers 12 and 14 of Defendant
21 Prasinos's First Set of Interrogatories and Interrogatory Numbers 7 and 8 of Defendant
22 Johnson's First Set of Interrogatories by November 20, 2017;
- 23 4. Plaintiff shall also serve a verified copy of his original and supplemental interrogatory
24 responses on defendants by November 20, 2017;
- 25 5. The deadline to file any additional motions to compel discovery is extended to
26 December 7, 2017 for good cause shown; and,

27 /////

28 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. The deadline to file a dispositive motion is extended to January 3, 2018 for good cause shown.

Dated: November 6, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

12/gibb0061.depotranscript+36.docx