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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLOS KINKEADE,
Plaintiff,
v.
JEFFERY BEARD, et al.,
Defendants.

No. 2:15-cv-1375 TLN CKD P

ORDER

Plaintiff is a state prisoner proceeding through counsel in this civil rights action. Before the court is defendant Oddie's motion to deem admitted Defendant's Requests for Admission to Plaintiff, Set One, pursuant to Rule 36(a)(3) of the Federal Rules of Civil Procedure. (ECF No. 34.) Plaintiff has filed an opposition, and defendant Oddie has replied. (ECF Nos. 35 & 36.)

As plaintiff acknowledges, under Rule 36(a), the failure to timely respond to requests for admission results in automatic admission of the matters requested. Here it is undisputed that, after plaintiff obtained counsel, plaintiff's responses to the RFAs were due on January 6, 2017. (See ECF No. 34-2, Ex. A & B.) Plaintiff's counsel concedes that, due to an inadvertent calendaring error, plaintiff did not timely respond or object to the RFAs. Therefore, these matters are deemed admitted.

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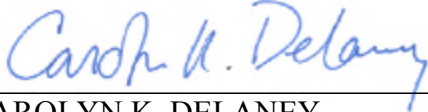
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Accordingly, IT IS HEREBY ORDERED that:

1. Defendant Oddie's motion to deem requests admitted (ECF No. 34) is granted; and
2. Defendant's Requests for Admission to Plaintiff, Set One are deemed admitted under Rule 36(a) of the Federal Rules of Procedure.

Dated: February 23, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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