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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WARREN FRANK, JR.,
Plaintiff,
v.
JEFF MACOMBER, et al.,
Defendants.

No. 2:15-cv-2133 KJM CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. On April 10, 2018, the court recommended that this action be dismissed for plaintiff’s failure to file an opposition to defendants’ January 18, 2018 motion to compel plaintiff to respond to defendant Shinnette’s request for production of documents and motion to deem requests for admissions admitted based on plaintiff’s failure to provide a timely response. Plaintiff still has not opposed the motion. However, he has provided defendants with responses to defendant Shinnette’s request for production of documents and request for admissions.

Good cause appearing, the court will vacate the April 10, 2018 findings and recommendations. With respect to defendants’ January 18, 2018 motion to compel plaintiff to respond to defendant Shinnette’s request for production of documents, that motion will be denied

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1 as plaintiff has now responded. Defendants will be granted 14 days within which to file a motion
2 to compel plaintiff to provide further responses if they are not satisfied with the responses given.

3 As for defendants' motion to deem requests for admissions admitted, that motion will be
4 granted as plaintiff did not file a timely response to the requests for admissions which results in
5 automatic admission under Federal Rule of Civil Procedure 36(a)(3). Further, plaintiff has not
6 sought relief from the operation of Rule 36(a)(3) as he may do under Rule 36(b).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The court's April 10, 2018 findings and recommendations are vacated.
- 9 2. Defendants' motion to compel responses to request for production of documents (ECF
10 No. 57) is denied.
- 11 3. Defendants' request to deem requests for admissions admitted (ECF No. 57) is granted.
- 12 4. The requests for admissions appearing on the court's docket as Exhibit B attached to
13 document 57-1 are deemed admitted by plaintiff.
- 14 5. Defendants are granted 14 days within which to file a motion to compel further
15 responses to defendant Shinnette's request for production of documents.

16 Dated: May 9, 2018

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19 CAROLYN K. DELANEY
20 UNITED STATES MAGISTRATE JUDGE

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