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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF F. WOLINSKI,  
Plaintiff,  
v.  
J. LEWIS, et al.,  
Defendants.

No. 2:17-cv-0583 MCE AC P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 15, 2019, plaintiff filed a motion to compel the production of documents, which the court denied as premature in light of the fact that a discovery order had yet to issue. ECF Nos. 45, 48. On November 4, 2019, plaintiff filed objections to the court’s denial of his motion to compel along with a motion for discovery. ECF Nos. 49, 50. For the reasons stated below, the court will deny plaintiff’s motion for discovery. The court also formally warns plaintiff a final time to cease his filing of repetitive and/or unnecessary documents.

I. PLAINTIFF’S MOTION FOR DISCOVERY

The instant motion for discovery is effectively a second motion filed in less than three weeks requesting that discovery begin in this matter. For the reasons stated below, the court finds

1 that like plaintiff's earlier filed motion to compel the production of documents, this motion is also  
2 premature and must be denied. The court further finds that plaintiff's filing of the instant motion  
3 is repetitive and harassing.

4 The status of this case is no different than it was three weeks ago when plaintiff filed the  
5 October 15, 2019 motion to compel. Specifically, plaintiff's first amended complaint has yet to  
6 be screened, and a discovery and scheduling order has yet to be issued by the court. Therefore,  
7 like plaintiff's motion to compel, the instant motion for discovery is premature. For this reason,  
8 as well as the fact that the motion is substantively duplicative, it will be denied.

9 **II. PLAINTIFF'S INTENT TO ACCELERATE THE PROCEEDINGS**

10 It appears that at the core of plaintiff's recent discovery-related motions is his attempt to  
11 accelerate these proceedings. This is understandable to some degree, given that this matter has  
12 been on the court's docket since March of 2017, and is still at the screening stage. However, the  
13 protracted litigation of this case is largely the result of plaintiff's practice of excessive filing and  
14 his brazen history of deception.

15 Since the commencement of this action, plaintiff has actively perjured himself and  
16 deceived the court by filing false documents and making false claims, and he has been sanctioned  
17 for such antics. See ECF Nos. 29, 36, 40 (court finding plaintiff violated Rule 11(b)(1),(3) and  
18 granting defendants' motion for sanctions in the amount of \$1,000.00). Plaintiff's filing of  
19 repetitive motions, his filing of objections where none are warranted by the rules, his making of  
20 false statements to the court about his access to his prison law library, his failure to timely file his  
21 first amended complaint, his consistent failure to meet other court-mandated deadlines, and his  
22 multiple requests for extensions of time, have severely impacted the proceedings in this matter.  
23 See generally ECF No. 1-50. The need for judicial response to plaintiff's filings and misconduct  
24 have wasted resources and impeded the court's ability to timely address the substance of the case.  
25 In short, plaintiff's own litigation behavior is the greatest cause of the delay about which he  
26 complains.

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1 If plaintiff would like these proceedings to move at a faster pace, he should stop filing  
2 repetitive, untimely, unwarranted and untruthful motions in this court.<sup>1</sup>

3 **III. COURT’S FINAL ADMONISHMENT**

4 On January 15, 2019, this court formally warned plaintiff that deceptive and harassing  
5 actions similar to the ones he had used when falsely accusing defendants and defense counsel of  
6 denying him access to the prison law library could result in a recommendation that this lawsuit be  
7 dismissed. See ECF No. 36 at 8. The instant motion for discovery is effectively the second  
8 premature motion like it filed by plaintiff in less than three weeks. In addition, because plaintiff  
9 has filed “objections” to the undersigned’s October 21, 2019 denial of plaintiff’s motion to  
10 compel, which the court construes as a motion for reconsideration pursuant to 28 U.S.C. §  
11 636(b)(1)(A), the issue of whether his first discovery motion was premature is currently under  
12 review by the District Court Judge assigned to this action. For these reasons, the court finds that  
13 plaintiff’s simultaneous filing of the instant, duplicative motion to commence discovery along  
14 with his objections / motion for reconsideration is repetitive and harassing and that it violates the  
15 Federal Rules of Civil Procedure. See Fed. R. Civ. P. 11(b)(1)-(2) (stating party presenting  
16 motion or other paper to court certifies that it is not being presented for any improper purpose  
17 such as to harass and that claims are warranted by existing law). Consequently, the court warns  
18 plaintiff a second time that such harassment of the court and of defendants via the filing of what  
19 are clearly unwarranted duplicate motions will not be tolerated. **This is his final warning.**  
20 Similar actions in the future may result in the imposition of additional sanctions including, but not  
21 limited to, a recommendation that this action be dismissed with prejudice.

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24 <sup>1</sup> The Eastern District of California carries one of the largest and most heavily weighted  
25 caseloads in the nation. See Office of the Clerk, United States District Court, Eastern District of  
26 California, 2019 Annual Report, “Workload Statistics,” p. 35 (2019) (“Our weighted caseload  
27 still exceeds the national average . . . ranking us eighth in the nation and second in the Ninth  
28 Circuit.”). This problem is compounded by a shortage of jurists to review its pending matters.  
See generally id. (stating 2019 Biennial Judgeship Survey recommended preliminary request for  
five additional permanent judgeships for Eastern District of California). “[T]his court is unable to  
devote inordinate time and resources to individual cases and matters.” Cortez v. City of  
Porterville, 5 F. Supp. 3d 1160, 1162 (E.D. Cal. 2014).

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Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for discovery, filed November 4, 2019 (ECF No. 49), is DENIED as premature and duplicative.

Any other motions filed by plaintiff that seeks to begin the discovery process prior to the issuance of the court's discovery and scheduling order will not be considered, and may subject plaintiff to sanctions, including, but not limited to, the recommendation that this action be dismissed with prejudice.

DATED: November 13, 2019

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE