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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOM MARK FRANKS,
Plaintiff,
v.
J. CLARK KELSO, et al.,
Defendants.

No. 2:17-cv-1056 KJM CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with an action arising under 42 U.S.C. § 1983. The remaining defendant, defendant Giddings, is a dentist at High Desert State Prison. Plaintiff has filed a motion to compel concerning defendant’s responses to plaintiff’s “second request for production of documents.” Defendant Giddings has opposed the motion. However, neither party submitted a copy of the responses which were provided to plaintiff by defendant as required under Local Rule 250.3(c), and the court requires a copy to resolve plaintiff’s motion. Good cause appearing, the court will order defendant to provide the court with a copy of his responses within five days.

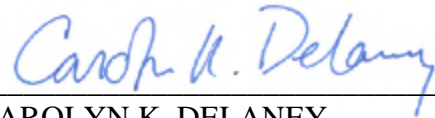
Also, defendant has filed a timely motion for summary judgment which was filed shortly after the court granted a motion to re-open discovery filed by plaintiff. Plaintiff has not yet opposed the motion and asks that he not be required to until his pending motion to compel is resolved. The court has reviewed the motion for summary judgment and it is not clear to the

1 court whether plaintiff's opposition to the motion depends in any material respect on the outcome
2 of plaintiff's motion to compel, but it may. Accordingly, in the interests of fairness and
3 efficiency, the motion for summary judgment will be denied without prejudice. At some point
4 after resolution of plaintiff's motion to compel, and if still appropriate, the court will provide a
5 deadline by which defendant will be permitted to renew his motion for summary judgment.
6 Renewal may be made simply through a notice of renewal if it turns out that defendant does not
7 wish to modify the pending motion.

8 Accordingly, IT IS HERBY ORDERED that:

- 9 1. Within five days, defendant shall submit to the court a copy of his responses to
10 plaintiff's "second request for production of documents."
- 11 2. Defendant's motion for summary judgment (ECF No. 35) is denied without prejudice.

12 Dated: May 2, 2019



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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