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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODNEY BROOKS,
Plaintiff,
v.
J. LEE, *et al.*,
Defendants.

Case No. 2:18-cv-00374-WBS-JDP (PC)

ORDER

There are three motions pending involving plaintiff’s discovery responses and the dispositive motion deadline. First, plaintiff has filed his fourth motion to modify the scheduling order. ECF No. 90. Second, defendants have filed a motion seeking leave to file a motion to compel and request that the dispositive motion deadline be vacated.¹ ECF No. 89. Finally, defendants have moved to extend the dispositive motion deadline. ECF No. 96. In light of plaintiff’s repeated failure to provide defendants with discovery responses, I will grant defendants leave to file a motion to compel and will extend the dispositive motion deadline.

On July 15, 2022, I issued a discovery and scheduling order that set the deadline for completing discovery, including filing discovery-related motions, as December 16, 2022, and the dispositive motion deadline as March 17, 2023. ECF No. 79. Since that order, plaintiff has

¹ I will not vacate the dispositive motion deadline but will extend it in hopes of encouraging this case to progress.

1 sought to modify those deadlines four times, including most recently on May 26. ECF Nos. 80,
2 83, 86, & 90. The latest extension granted the parties until May 8 to complete discovery. ECF
3 No. 88. Despite the multiple extensions, defendants argue that plaintiff has failed to respond to
4 discovery propounded in November 2022. ECF No. 89.

5 Plaintiff's repeated failure to respond to discovery request is troubling, especially given
6 the fast-approaching dispositive motion deadline. Each party has an obligation in litigation to
7 respond to properly propounded discovery requests. And if a party chooses to ignore that
8 obligation, the court has authority to impose certain sanctions—including dismissal. Fed. R. Civ.
9 P. 37(d)(1)(A), (d)(3). While I am cognizant of challenges that prisoner-plaintiffs face, plaintiff's
10 pro se status does not excuse intentional noncompliance with discovery rules and court orders.
11 *See Lindstedt v. City of Granby*, 238 F.3d 933, 937 (8th Cir. 2000) (affirming sanction of
12 dismissal, holding that “[a] pro se litigant is bound by the litigation rules as is a lawyer,
13 particularly here with the fulfilling of simple requirements of discovery”); *Warren v. Guelker*, 29
14 F.3d 1386, 1390 (9th Cir. 1994) (holding that district court could not decline to impose any
15 sanction for violation of Fed. R. Civ. P. 11 simply because plaintiff was proceeding pro se).

16 Plaintiff has provided numerous reasons why he has needed additional time to complete
17 discovery: COVID-19 restrictions, moving between cell units, medical issues, his job, and college
18 classes. *See* ECF Nos. 80, 83, 86, & 90. Although plaintiff has alleged facing multiple
19 challenges, both the court and defendants—who did not oppose plaintiff's prior three motions to
20 modify the scheduling order, ECF Nos. 81, 84, & 87—have been liberal with extensions of time.
21 Notwithstanding numerous extensions, plaintiff has failed to complete written discovery
22 responses for over six months.

23 Plaintiff is cautioned that if he does not submit responses to defendants' outstanding
24 discovery within thirty days of this order's entry, I may consider a sanction of dismissal
25 appropriate. *See Gordon v. Cnty. of Alameda*, 2007 WL 1750207, at *5 (N.D. Cal. June 15,
26 2007) (“[P]ro se plaintiffs must abide by the rules of discovery, and when they fail to do so in bad
27 faith dismissal is warranted.”).

28 Accordingly, it is hereby ORDERED that:

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1. Defendants' motion for leave to file a motion to compel is, ECF No. 89, is granted in part.


- a. Defendants may file a motion to compel; and
- b. The dispositive motion deadline is extended to September 29, 2023.

2. Plaintiff's motion for an extension of time, ECF No. 90, is granted. He must provide responses to defendants' discovery request within thirty days of this order's entry.

3. Defendants' motion for an extension of time, ECF No. 96, is granted. The dispositive motion deadline is extended to September 29, 2023.

IT IS SO ORDERED.

Dated: July 10, 2023



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE