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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAIME Y. CLAVITO,

Plaintiff,

v.

U.S. DEPARTMENT OF VETERANS
AFFAIRS,

Defendant.

No. 2:18-cv-431-JAM-KJN PS

ORDER

On February 26, 2018, plaintiff Jaime Clavito, appearing without counsel, commenced this action against defendant the United States Department of Veterans Affairs (“VA”) to compel compliance with the Freedom of Information Act (“FOIA”); more specifically, plaintiff, a disabled veteran, seeks to compel production of documents related to his educational debt. (ECF No. 1.)¹

On May 30, 2018, the VA filed an answer to plaintiff’s complaint. (ECF No. 10.)

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¹ All parties consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c), and the action proceeds before the undersigned for all purposes, including the entry of final judgment. (ECF Nos. 7, 11.)

1 A status conference in the matter was set for August 23, 2018, and the parties were
2 ordered to file status reports addressing specific topics no later than seven (7) days prior to the
3 conference. (ECF No. 6.) On August 15, 2018, the VA filed a status report. (ECF No. 10.)
4 Although the applicable deadline has now passed, no status report was filed by plaintiff.² Upon
5 review of the VA's status report, the status conference was vacated, with a written scheduling
6 order to follow.

7 In its status report, the VA requests the court to defer scheduling of discovery and trial
8 dates pending a motion for summary judgment it intends to file in the next 60 days. At least at
9 this juncture, it does not appear appropriate to schedule discovery deadlines or any trial dates.
10 See Lane v. Dep't of Interior, 523 F.3d 1128, 1134 (9th Cir. 2008) (noting that discovery in FOIA
11 cases is limited, and that courts may allow the government to move for summary judgment before
12 the plaintiff conducts discovery). However, if plaintiff believes that any specific discovery is
13 necessary to respond to the VA's motion for summary judgment, plaintiff may outline the specific
14 discovery requested in his opposition to that motion for summary judgment. The court will then
15 determine whether such discovery is necessary prior to ruling on the VA's motion for summary
16 judgment.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Discovery in this action is STAYED pending further order of the court.
- 19 2. The VA shall file any motion for summary judgment within 60 days of this order, and
20 shall notice that motion for a hearing in accordance with Local Rule 230.³
- 21 3. Consistent with Local Rule 230, plaintiff shall file any opposition to the motion for
22 summary judgment no later than fourteen (14) days prior to the hearing date.
23 Plaintiff's opposition shall address BOTH: (a) the merits of the VA's arguments; and
24 (b) if plaintiff requests to conduct discovery, the specific discovery requested.

25 ² In light of plaintiff's *pro se* status, the court declines to impose any sanctions on plaintiff.
26 However, plaintiff is cautioned that future failure to comply with court orders and deadlines may
27 lead to the imposition of monetary or other sanctions.

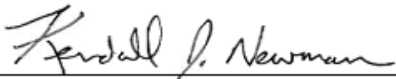
28 ³ A copy of the court's Local Rules is available on the court's website or from the Clerk's Office
on the 4th floor of the United States Courthouse at 501 I Street, Sacramento, CA.

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Importantly, plaintiff's opposition shall set forth all his arguments in opposition to the VA's motion, in addition to a request to conduct discovery, if any.

4. Consistent with Local Rule 230, the VA shall file its reply brief no later than seven (7) days prior to the hearing date.
5. Upon resolution of the VA's motion for summary judgment, the court will issue a further scheduling order, if necessary.

Dated: August 21, 2018


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE