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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN McCLINTOCK,
Plaintiff,
v.
T. COOPER, et al.,
Defendants.

No. 2: 18-cv-0560 JAM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion to compel filed February 18, 2020, pursuant to the mailbox rule. (ECF No. 35.) On March 13, 2020, defendants filed an opposition to plaintiff’s motion to compel. (ECF No. 39.) For the reasons stated herein, plaintiff’s motion to compel is denied.

Pursuant to the December 19, 2019 scheduling order, responses to discovery requests are due forty-five days after the request is served. (ECF No. 30.) In the motion to compel, plaintiff alleges that he served defendants with a request for production of documents on December 29, 2019. (ECF No. 35 at 1.) Plaintiff alleges that he served defendants with interrogatories on January 2, 2020. (Id. at 2.) Plaintiff alleges that defendants failed to respond to his discovery requests within forty-five days of service.

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1 Federal Rule of Civil Procedure 6(d) provides, in relevant part, that when a party must act
2 within a specified time after being served and service is by mail, three days are added after the
3 period would otherwise expire under Rule 6(a). In addition, if the last day to respond falls on a
4 Saturday, Sunday or legal holiday, the period for responding runs until the end of the next day
5 that is not a Saturday, Sunday or legal holiday. Fed. R. Civ. P. 6(a)(1)(C).

6 Defendants served plaintiff by mail with responses to the request for production of
7 documents and interrogatories on February 19, 2020. (ECF No. 39-1 at 9-17.) Therefore,
8 defendants had forty-eight days from December 29, 2019, to serve plaintiff with responses to his
9 request for production of documents. Forty-eight days from December 29, 2019 was Saturday,
10 February 15, 2020. The following Monday, i.e., February 17, 2020, was a federal holiday, i.e.,
11 Presidents' Day. Accordingly, defendants' responses to plaintiff's request for production of
12 documents were due February 18, 2020. Defendants served plaintiff with their responses to his
13 request for production of documents one day late, i.e., on February 19, 2020.


14 In the opposition to plaintiff's motion to compel, defendants admit that the responses to
15 the request for production of documents were served one day late due to a calendaring error.
16 Because plaintiff suffered no prejudice as a result of this one day delay, and has now apparently
17 received the responses to his request for production of documents, plaintiff's motion to compel as
18 to defendants' responses to his request for production of documents is denied.

19 Defendants had forty-eight days from January 2, 2020 to serve plaintiff with responses to
20 interrogatories. Forty-eight days from January 2, 2020, is February 19, 2020. Therefore,
21 defendants' responses to plaintiff's interrogatories were timely served. Thus, plaintiff's motion to
22 compel as to defendants' responses to his interrogatories is denied.

23 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel (ECF No. 35)
24 is denied.

25 Dated: March 27, 2020

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE