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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   GARY PAUL SMITH,   No. 2:21-cv-1992 KJM AC P

12   Plaintiff,

13   v.   ORDER

14   MUNICIPALITY OF FRESNO, et al.,

15   Defendants.

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17   Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42

18   U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28

19   U.S.C. § 636(b)(1)(B) and Local Rule 302.

20   On July 14, 2022, a document filed by plaintiff was docketed. ECF No. 102. The

21   document is lengthy and difficult to understand. Due to the document's content (to the extent it

22   can be deciphered), including what appear to be handwritten discovery requests and related

23   narrative (see id. at 2-20), and the current stage of these proceedings, the court construes the filing

24   as a motion to compel discovery.[1]

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26   [1] In the motion, plaintiff also "requests summary judgment." ECF No. 102 at 6. The filing does
        not adhere to the guidelines for a summary judgment motion, however. See generally Fed. R.

27   Civ. P. 56(a), (c); Local Rule 260. Moreover, a summary judgment motion appears to be
        premature. Summary judgment generally follows discovery. See Fed. R. Civ. P. 56(b) (motions

28   for summary judgment to be filed no later than thirty days after close of all discovery).

                                                    1

1   Plaintiff's motion must be denied. Parties seeking to compel discovery must comply with

2   Federal Rule of Civil Procedure 37. Pursuant to Rule 37(a), a party propounding discovery may

3   seek an order compelling disclosure when an opposing party has failed to respond or has provided

4   evasive or incomplete responses. Rule 37(a)(2)(3), Fed. R. Civ. P. The moving party bears the

5   burden of demonstrating "actual and substantial prejudice" from the denial of discovery. See

6   Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002). In order for the court to be able to

7   understand and adjudicate the discovery dispute, a pro se plaintiff must in plain and simple terms

8   identify

9   (1) which discovery requests are the subject of his motion to compel;
            (2) which of Defendants' response are disputed; (3) why he believes
10   Defendants' responses are deficient; (4) why Defendants' objections
            are not justified; and (5) why the information he seeks through
11   discovery is relevant to the prosecution of this action.

12   James v. Scribner, 2010 U.S. Dist. LEXIS 75891 at *2, 2010 WL 2605634 at *1 (E.D. Cal. June

13   28, 2010); see also Brooks v. Alameida, 2009 U.S. Dist. LEXIS 9568, 2009 WL 331358 at *2

14   (E.D. Cal. Feb. 10, 2009); Ellis v. Cambra, 2008 U.S. Dist. LEXIS 109050, 2008 WL 860523 at

15   *4 (E.D. Cal. Mar. 27, 2008).

16   The court cannot readily determine from plaintiff's filing what discovery, if any, has been

17   provided by defendants; the nature of any alleged inadequacy of production; the asserted bases

18   for any refusal to produce or respond; on what ground plaintiff believes defendants' objections to

19   be without merit; or why the information plaintiff seeks by this motion is important to the case.

20   Plaintiff states that he has "been asking for all the documents all since [November] 2021[,]" ECF

21   No. 102 at 21, but no coherent chronology is provided.

22   Because plaintiff's motion is procedurally defective, it will be denied as such without

23   prejudice. If plaintiff files another motion to compel discovery, it must simply and plainly

24   identify each discovery request at issue. As to each request, it must set forth defendants' response

25   or objection, plaintiff's position as to the inadequacy of the response or invalidity of the

26   objection, and an explanation of the information's significance. The motion must be organized in

27   a way assists the court in reviewing the issues presented.

28   ////

1   Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel (ECF No. 102)

2   is DENIED without prejudice.

3   DATED: July 26, 2022

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ALLISON CLAIRE
5   UNITED STATES MAGISTRATE JUDGE

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