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28***E-FILED 12-23-2009***

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PIOTR J. GARDIAS,

No. C09-02090 HRL

Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL**

v.

THE CALIFORNIA STATE UNIVERSITY,
SAN JOSE STATE UNIVERSITY,**[Re: Docket No. 40]**Defendant.

On December 21, 2009, plaintiff filed a "Motion to Compel" and purported to notice the matter for a January 26, 2010 hearing. Gardias seeks an order compelling defendant to answer questions he sent to defense counsel by email on December 14, 2009. In that email, plaintiff demanded that defendant's responses be served within three days. Plaintiff's inquiries were not properly served discovery requests. Moreover, fact discovery closed on December 4, 2009. Thus, even if this court were to excuse the manner in which plaintiff served his requests, the requests are untimely — as is the instant motion to compel. See Civ. L.R. 26-2; see also September 29, 2009 Case Management Order (Docket No. 29). Accordingly, the motion is denied.

SO ORDERED.

Dated: December 23, 2009



HOWARD P. LLOYD
UNITED STATES MAGISTRATE JUDGE

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5:09-cv-02090-HRL Notice has been electronically mailed to:
Mary Susan Cain-Simon: Mary.CainSimon@doj.ca.gov, ECFCoordinator@doj.ca.gov,
Leticia.MartinezCarter@doj.ca.gov
Counsel are responsible for distributing copies of this document to co-counsel who have not
registered for e-filing under the court's CM/ECF program.
5:09-cv-02090-HRL Notice mailed to:
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72 Floyd St.
San Jose, CA 95110