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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CHRISTOPHER J. WILLING,

Plaintiff,

v.

DEPUTY ARMS et al.,

Defendants.

Case No. 2:14-cv-01122-APG-PAL

**ORDER**

(Mot. Stay Discovery – Dkt. #57)  
(Mot. Stay or Ext. Discovery – Dkt. #59)  
(Mot. to Compel – Dkt. #67)

This matter is before the Court on Defendant Nye County Detention Center’s Motion to Stay Discovery (Dkt. #57) filed July 24, 2015. Also before the Court is Defendant Health Care Partners’ Motion to Stay or, in the Alternative, Extend Discovery Deadlines (Dkt. #59), filed July 24, 2015; and Plaintiff Christopher J. Willing’s Motion to Compel (Dkt. #67) filed August 19, 2015. This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 and 1-9 of the Local Rules of Practice.

**BACKGROUND**

Plaintiff is a prisoner proceeding in this matter *pro se* and *in forma pauperis*. On July 7, 2014, Plaintiff filed an application to proceed *in forma pauperis* along with his initial complaint. *See* (Dkt. #1). The Court screened Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915, finding that it stated claims against Defendants Arms, Nye County Detention, and Health Care Partners for deliberate indifference and directed service. *See* Screening Order (Dkt. #5); Complaint (Dkt. #6); Mar. 3, 2015 Order (Dkt. #27). Summons were returned executed for Defendants Nye County Detention and Health Care Partners, *see* USM Returns (Dkt. ##31, 34, 35), but not for Defendant Arms. *See* USM Returns Unexecuted (Dkt. ##32, 38). Plaintiff therefore filed a motion providing additional information for Defendant Arms and requested leave to reserve the summons. *See* Mot. for Re-Service of Summons (Dkt. #39).



1 deadlines “cannot reasonably be met despite the diligence of the party seeking the extension.”

2 *Id.* Additionally, any motion or stipulation to extend a deadline or to reopen discovery must  
3 comply with Local Rules 26-4 and 6-1 of the Local Rules of Practice, and include the following:

- 4 (a) A statement specifying the discovery completed;
- 5 (b) A specific description of the discovery that remains to be completed;
- 6 (c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set  
7 by the discovery plan; and,
- 8 (d) A proposed schedule for completing all remaining discovery.

9 *See* LR 26-4.

10 Healthcare Partners’ motion provides a list of discovery that has been served to date and  
11 states that it has noticed Plaintiff’s deposition, although the date may change given Plaintiff’s  
12 incarceration. Healthcare Partners asserts that the parties need more time to complete  
13 depositions of Plaintiff, witnesses, and propound additional written discovery. In particular,  
14 Healthcare Partners recognizes that several Defendants have not been served or filed responsive  
15 pleadings and, if those parties appear, they will need to conduct discovery. Plaintiff did not file  
16 an opposition to this motion and the time for filing a response has now passed. The Court finds  
17 good cause to extend the deadlines stated in the Scheduling Order by ninety (90) days from this  
18 order.

19 **III. PLAINTIFF’S MOTION TO COMPEL (DKT. #67)**

20 On August 19, 2015, Plaintiff filed a Motion to Compel Defendant Nye County  
21 Detention Center to produce documents and responses to interrogatories. Plaintiff’s Motion  
22 acknowledges that the August 4, 2015 Order (Dkt. #33) dismissed Nye County Detention Center.  
23 As a non-party, Nye County Detention Center is not required to respond to interrogatories or  
24 requests for production of documents served pursuant to Rules 33 and 34 of the Federal Rules of  
25 Civil Procedure. However, Plaintiff relies upon LR 16-1(b) as authority for requiring Nye  
26 County Detention Center, “as a political entity of Nye County,” to produce the requested  
27 documents. Mot. to Compel (Dkt. #63) at 1–3. LR 16-1(b) states that the Court shall enter a  
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1 scheduling order in actions by inmates pursuant to 42 U.S.C. § 1983.<sup>1</sup> LR 16-1(b) is not a proper  
2 basis for compelling Nye County Detention Center to respond to Plaintiff's interrogatories or  
3 requests for production of documents.

4 After Plaintiff filed his Motion, Nye County has been added as a party to this case. *See*  
5 Order (Dkt. #68). After Plaintiff serves the Amended Complaint and Summons on Nye County,  
6 he will be allowed to serve discovery requests directly upon Nye County. Discovery requests  
7 must be served on opposing parties, who then have thirty (30) days to respond. A motion to  
8 compel discovery materials may only be filed when a timely discovery request has been served,  
9 the opposing party has not responded or has inadequately responded, and the moving party has  
10 attempted in good faith to resolve any dispute about the adequacy of the discovery responses  
11 without the Court's intervention. Local Rule 26-7 also states the following:

12 Discovery motions will not be considered unless a statement of moving counsel is  
13 attached thereto certifying that, after personal consultation and sincere effort to do  
so, counsel have been unable to resolve the matter without court intervention.

14 LR 26-7(b). Local Rule 26-7 also requires that a party filing a motion to compel "set forth in full  
15 the text of the discovery originally sought and the response thereto, if any." LR 26-7(a). The  
16 purpose of this rule is to give the court sufficient information to evaluate whether the information  
17 sought is relevant and discoverable and whether the responses are sufficient or require  
18 supplementation.

19 This is not the first time the Court has cautioned Plaintiff about following the Local  
20 Rules. Plaintiff recently filed three Motions for Production of Documents (Dkt. ## 52, 53, 60) in  
21 violation of Local Rule 26-8, which states that written discovery requests shall not be filed with  
22 the Court but shall be mailed directly to counsel for the opposing party. *See* Aug. 19, 2015  
23 Order (Dkt. #66). Accordingly, the Court instructed the Clerk of the Court to strike Plaintiff's  
24 discovery requests from the record. *Id.* The Court recognizes that it is difficult for *pro se* parties

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25 <sup>1</sup> LR 16-1(b) states the following:

26 In actions by or on behalf of inmates under 42 U.S.C. § 1983 or the principles of *Bivens*  
27 v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971),  
and in forfeiture and condemnation actions, no discovery plan is required. In such cases,  
28 a scheduling order shall be entered within thirty (30) days after the first defendant  
answers or otherwise appears.

1 to litigate their claims; however, a *pro se* litigant must follow the same rules of procedure that  
2 govern other litigants. *See King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1986). This includes  
3 complying with the Local Rules of Practice as well as the Federal Rules of Civil Procedure.  
4 Plaintiff is advised to carefully review the discovery rules contained in Rules 26–36 of the  
5 Federal Rules of Civil Procedure and the Local Rules of Practice to ensure that he follows the  
6 appropriate discovery procedures.

7 Because Nye County Detention Center is no longer a party to this action, Nye County has  
8 not yet been served and therefore discovery directed to Nye County is premature, the Motion to  
9 Compel is denied without prejudice.

10 **IT IS ORDERED:**


- 11 1. Defendant Nye County Detention Center’s Motion to Stay Discovery (Dkt. #57)  
12 is DENIED as moot.
- 13 2. Defendant Health Care Partners’ Motion to Stay or, in the Alternative, Extend  
14 Discovery Deadlines (Dkt. #59) is DENIED as moot with respect to a stay of  
15 discovery and GRANTED regarding an extension of discovery deadlines. The  
16 following deadlines stated in the Scheduling Order (Dkt. #44) are extended by  
17 ninety (90) days:
  - 18 a. Discovery in this action shall be completed on or before December 21,  
19 2015;
  - 20 b. Motions for summary judgment shall be filed and served no later than  
21 January 20, 2016; and
  - 22 c. The Parties shall file a Joint Pretrial Order February 22, 2016. If  
23 dispositive motions are timely filed the deadline for filing the joint pretrial  
24 order is suspended until 30 days after decision of dispositive motions or  
25 further order of the court.
  - 26 d. The disclosures required by Fed. R. Civ P 26(a)(3) and any objections to  
27 the disclosures shall be included in the joint pretrial order.

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3. Plaintiff's Motion to Compel (Dkt. #67) is DENIED.

Dated this 21st day of September, 2015.

  
PEGGY A. FEEN  
UNITED STATES MAGISTRATE JUDGE