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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 MICHAEL WAYNE STEED,

11 Plaintiff,

12 v.

13 MARY SCOTT et al.

14 Defendants.

CASE NO. C12-6058 RBL-JRC

ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL  
DISCOVERY

15 The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned  
16 Magistrate Judge. The Court's authority for the referral is 28 U.S.C. §§ 636(b)(1)(A) and (B) and  
17 Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

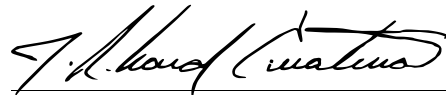
18 Plaintiff asks the Court to compel defendants to provide discovery (ECF No. 28)  
19 Defendants respond and argue that there has not been a Fed. R. Civ. P. 26(f) conference (ECF  
20 No. 29). Defendants argue that this conference must occur before discovery and that their motion  
21 to dismiss should be ruled on prior to any discovery taking place.

22 The Court denies the motion to compel because there is a pending Report and  
23 Recommendation to dismiss this action for failure to exhaust administrative remedies and, in the  
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1 alternative, because the defendants have raised the affirmative defense of qualified immunity.  
2 “Until this threshold immunity question is resolved, discovery should not be allowed”. *Harlow v.*  
3 *Fitzgerald*, 475 U.S. 800, 818 (1982).

4 The Court rejects defendants’ argument that an incarcerated pro se litigant must comply  
5 with the discovery conference provisions of Fed. R. Civ. P. 26(f). Fed. R. Civ. P. 26(f) itself  
6 specifically exempts pro se incarcerated inmates. *See*, Fed. R. Civ. P. 26(a)(1)(B)(iv) and Fed. R.  
7 Civ. P. 26(f)(1).

8 Dated this 15<sup>th</sup> day of April, 2013.

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10 J. Richard Creatura  
11 United States Magistrate Judge  
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