

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hash v. Faggianelli

Hash · No. 2:17-cv-1721 TLN AC P · Decided March 31, 2025

SUMMARY

The United States District Court for the Eastern District of California resolves several discovery-related motions in Lawrence George Hash’s 42 U.S.C. § 1983 action. The court grants defendants Faggianelli and Schwimmer an extension of time to respond to requests for admission, denies defendant Perera’s extension motion as unnecessary, denies Hash’s motions for reconsideration, and denies Hash’s motion to compel discovery.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 31, 2025
DOCKET	2:17-cv-1721 TLN AC P
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, the court resolved multiple discovery-related motions, motions for extensions of time, a motion for sanctions, a motion to compel, and motions for reconsideration.
STANDARD OF REVIEW	Discovery is governed by the relevance and proportionality limits of Federal Rule of Civil Procedure 26(b)(1), including the limitations in Rule 26(b)(2)(C). A party seeking to compel discovery bears the burden of showing relevance or substantial prejudice from denial. Motions for reconsideration must satisfy Local Rule 230(j) by identifying new or different facts, circumstances, or other grounds that were not previously presented and explaining why they were not previously shown.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Lawrence George Hash v. Faggianelli, et al.

TOPICS

discovery dispute

motion for reconsideration

sanctions

section 1983

prisoners rights

PRACTICE AREAS

civil procedure

prisoner civil rights

QUESTIONS PRESENTED

1. Whether defendants Faggianelli and Schwimmer should receive an extension of time, nunc pro tunc, to respond to plaintiff's requests for admission and whether their admissions should be withdrawn or amended.
2. Whether defendant Perera should receive an extension of time to respond to plaintiff's requests for production.
3. Whether plaintiff was entitled to file a sur-reply or obtain sanctions.
4. Whether plaintiff's motion to compel approximately 962 discovery responses should be granted.
5. Whether plaintiff's motions for reconsideration of prior rulings on an extension of time and appointment of counsel should be granted.

HOLDINGS

1. The court had authority to grant an extension nunc pro tunc, defendants were entitled to rely on the parties' initial agreement to a June 7, 2023 response deadline, and their responses were deemed timely.
2. The extension motion was denied as unnecessary because the record did not establish that the November 15, 2022 request for production containing thirty-three requests had been timely or properly served, and defendant had already responded to the request that was received.
3. The motion to compel was denied because defendants' responses to the requests for admission, interrogatories, and requests for production were sufficient, and plaintiff could not use a motion to compel to require defendants to adopt his version of events or provide a different type of response.
4. The motions for reconsideration were denied because plaintiff presented no new or different facts or circumstances warranting a different result.

KEY QUOTATIONS

"Defendants are not required to adopt plaintiff's version of events as the truth, and the court cannot compel a defendant to provide a specific response to a request for admission or interrogatory." (at 10)

"Plaintiff's motion to compel is denied and defendants are not required to provide any further responses absent their continuing obligation to supplement their responses should additional information or documents be discovered." (at 13)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se, served extensive discovery requests concerning his allegations that prison officials retaliated against him, interfered with his property and court access, and subjected him to unsafe and unsanitary conditions. He challenged approximately 962 discovery responses and alleged that defendants had acted in bad faith by denying receipt of certain requests and by providing allegedly incomplete or untruthful responses. Defendants produced or addressed the discovery, and the court found that their responses, objections, and inquiries were generally sufficient, while many of plaintiff's requests were overbroad, burdensome, irrelevant, or sought documents that did not exist.

PROCEDURAL HISTORY

Plaintiff filed extensive discovery motions and disputes concerning requests for admission, interrogatories, and requests for production. After an informal discovery conference and prior orders setting briefing schedules and addressing extensions, defendants moved for extensions of time and to withdraw or amend admissions, and plaintiff moved to compel, for sanctions, and for reconsideration. The court granted an extension of time nunc pro tunc for defendants Faggianelli and Schwimmer, denied or found moot the remaining requested relief, denied plaintiff's motion to compel and motions for reconsideration, and permitted dispositive motions to be filed within forty-five days.

DISPOSITION

other

CASES CITED

- United States v. Procter & Gamble Co., 356 U.S. 677, 682 (1958)
- Hickman v. Taylor, 329 U.S. 495, 501 (1947)
- Aros v. Fansler, 548 F. App'x 500, 501 (9th Cir. 2013)
- Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002)
- Blankenship v. Hearst Corp., 519 F.2d 418, 429 (9th Cir. 1975)
- Johnson v. Sandy, 2014 WL 4631642, at *12, 2014 U.S. Dist. LEXIS 129810, at *7-8 (E.D. Cal. Sept. 15, 2014)
- Johnson v. Sandy, 2014 WL 7335228, 2014 U.S. Dist. LEXIS 178338 (E.D. Cal. Dec. 19, 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 LAWRENCE GEORGE HASH, No. 2:17-cv-1721 TLN AC P 12 Plaintiff,
13 v. ORDER 14 FAGGIANELLI, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se with a civil rights action pursuant to 42 18 U.S.C. § 1983. 19 I. Background 20
After plaintiff filed motions to compel against four of the defendants in this case, each 21
exceeding sixty pages, and expressed his intention to file similar motions against the remaining 22
thirteen defendants, the court stayed briefing on the motions to compel and ordered the parties to
23 meet and confer.

ECF No. 114. After meeting and conferring, the parties participated in an informal discovery conference which resolved issues related to plaintiff's deposition; the court also denied the motions to compel without prejudice. ECF No. 122.

The court then set a briefing schedule for outstanding discovery disputes. ECF No. 123 at 2. Defendants proceeded to file motions to withdraw or amend admissions and for extensions of time to respond to discovery requests (ECF Nos. 124, 125), which plaintiff opposed (ECF No. 128, 129, 138). Plaintiff then filed a motion to compel, filed in four parts (ECF Nos. 149, 151, 154, 156), which defendants oppose (ECF No. 160).

Plaintiff sought an extension of time to file a reply in support of his motion to compel (ECF No. 161), which was granted (ECF No. 163). However, in granting the motion, plaintiff was cautioned that no additional extensions would be granted considering the age of the case and the time that had already been devoted to his motion to compel. Id. at 1.

In granting the motion for extension, the court also denied plaintiff's requests for appointment of counsel and to re-open discovery. Id. at 2-3. Plaintiff has moved for reconsideration of the denial of his motions for counsel and the determination that no further extensions of time would be granted. ECF Nos. 164, 165. II. Defendants Faggianelli and Schwimmer's Motion to Withdraw or Amend Admissions and for an Extension of Time to Respond Defendants Faggianelli and Schwimmer seek to withdraw or amend deemed admissions and request that they be given an extension of time to submit their responses.

ECF No. 124. Plaintiff has requested leave to file an oversized brief opposing the motion and has submitted a forty-one-page opposition, not including exhibits. ECF Nos. 127, 129. The motion to exceed the twenty-page limit for oppositions will be granted. Plaintiff has also filed a motion for leave to file a sur-reply and requests sanctions (ECF No. 134), which will be denied.

Contrary to plaintiff's assertion, the reply does not raise new arguments but properly addresses arguments made in plaintiff's reply. The court finds no grounds for a sur-reply or the issuance of sanctions. Defendants assert that they did not receive plaintiff's requests for admission, dated March 21, 2023, until April 27, 2023, after counsel inquired about them based on a proof of service included with plaintiff's discovery responses and plaintiff re-sent them.

ECF No. 124-1 at 1-2. The parties met and conferred regarding the requests and initially came to an agreement as to a response deadline of June 7, 2023, but plaintiff later retracted the agreement after he obtained copies of the prison mail log showing he had mailed requests to the Attorney General's Office on March 8, 2023. Id. at 2, 4. Responses were served on June 7, 2023.

Id. Plaintiff argues that the admissions were properly served on March 8, 2023, and the parties never reached a valid agreement because his agreement was conditional. ECF No. 129 at 1

5-6, 9-10, 12-13. He also argues that counsel failed to file a motion to withdraw and for 2 extension until after the deadline and close of discovery, depriving the court of authority to grant 3 the requested relief, and that he has been prejudiced because of passage of time, will be 4 prejudiced because he intended to rely on deemed admissions for a motion for summary 5 judgment, and defendants acted in bad faith.

Id. at 13-24, 30-34. In his declaration, plaintiff 6 states he believes counsel was too busy working on the response to his motion to compel to notice 7 the requests and that when he finished the response realized that he only had seven days to 8 respond to the requests, which was not enough time, so he decided to lie about not receiving the 9 documents. Id. at 43-45.

10 The court has considered both parties' arguments and evidence and finds that while it is 11 clear that plaintiff mailed something to counsel on March 9, 2023,¹ defendants have submitted 12 sufficient evidence to demonstrate that they did not receive the requests, and there is no evidence 13 that defendants are being untruthful. Plaintiff's allegations of bad faith are premised entirely on 14 speculation, and the court will not impute bad faith to defendants or their counsel absent evidence 15 of such bad faith.

Moreover, the court finds that plaintiff did initially agree to a June 7, 2023 16 response deadline, and defendants were entitled to rely on that agreement. For these reasons, 17 defendants' motion for an extension of time to respond to the requests for admission will be 18 granted, nunc pro tunc, which is well within this court's authority.² As a result, the responses will 19 be deemed timely, and it is unnecessary for defendants to withdraw or amend their admissions.

20 III. Defendant Perera's Motion for an Extension of Time to Respond to Requests for Production
21 22 Defendant Perera has filed a motion for an extension of time to respond to plaintiff's 23 requests for production. ECF No. 125. Plaintiff has requested leave to file an extended 24 1 The requests were dated March 8, 2023, and the mail log shows they were sent out on March 9, 25 2023.

26 2 Plaintiff argues that the court has no authority because defendants did not request leave to file an untimely motion. ECF No. 129 at 25. However, the filing of said motion was discussed 27 during the informal discovery conference held on June 14, 2023, and the subsequent order setting the briefing schedule for discovery motions contemplated such a motion even if it was not 28 explicitly addressed in the order.

See ECF No. 123. 1 opposition to the motion and has submitted a nineteen-page opposition, not including exhibits. 2 ECF Nos. 137, 138. The motion to exceed the twenty-page limit for oppositions will therefore be 3 denied as unnecessary. 4 Defendant requests an extension of time to respond to plaintiff's first set of production 5 request containing thirty-three requests.

ECF No. 125. On November 30, 2022, defendant Perera 6 received plaintiff's interrogatories and requests for admissions, which indicated they were served 7 November 15, 2022. They also received a request for production, marked as "Set One," that 8 contained four requests and indicated it was served on November 20, 2022. Id. at 3. Plaintiff 9 then served another request for production, dated November 23, 2022, that was marked "Set 10 Two." Id. In plaintiff's original motion to compel (ECF No. 106), he claimed to have sent a 11 different "Set One" request for production on November 15, 2022, that consisted of thirty-three 12 requests.

Id. During a meet and confer session, plaintiff asked about the November 15, 2022 13 requests, at which point counsel advised that the set one he had received was different and had 14 already been responded to. Id. Counsel then offered to provide responses to the November 15, 15 2022 requests if plaintiff would agree to a reasonable amount of time for a response but plaintiff 16 refused.

Id. 17 Plaintiff argues that he did send the November 15, 2022 request for production and it is 18 therefore presumed that defendant received it, that defendant's motion is extremely untimely, that 19 he has been prejudiced by the delay, and that counsel has acted in bad faith. ECF No. 138 at 1-3, 20 7-10, 14-15. He also argues, once again, that the court has no power to grant defendant's motion 21 because it is untimely and does not establish excusable neglect.

Id. at 10-12. Plaintiff concedes 22 that he received responses to the requests on August 9, 2023. Id. at 6. 23 In their reply, defendants state that their records indicate that the discovery served on 24 November 15, 2022, contained two copies of interrogatories and one request for admission. ECF 25 No. 140 at 1-2. 26 As with the requests for admissions addressed above, though the mail log demonstrates 27 that something was mailed, it does not include a description of the mailed documents.

While 28 plaintiff is quick to allege bad faith on defendant's part, he fails to even consider the possibility 1 that, given the extremely voluminous nature of his discovery requests, he inadvertently failed to 2 include the request for production containing thirty-three requests with the requests sent on 3 November 15, 2022. Plaintiff also does not explain why, if he sent the request on November 15, 4 2022, he then sent another "Set One" request containing only four requests on November 20, 5 2022.

Based on the record before the court, defendant responded to the request that was received 6 and was not obligated to respond to the request for production dated November 15, 2022, because 7 it is not clear that it was timely or properly served. That defendant did so anyway demonstrates 8 that there was no bad faith on defendant or counsel's part.

Because defendant was not obligated 9 to respond to the November 15, 2022 requests for production, the request for an extension of time 10 will be denied as unnecessary.³ 11 IV. Motions for Reconsideration 12 Plaintiff has moved for reconsideration of the court's order granting his

request for a 13 forty-five-day extension of time to file a reply in support of his motion to compel, claiming that 14 he did not realize that the extra time would not start running from the issuance of the court's 15 order.

ECF Nos. 164, 165. He also asserts that he suffers from various medical conditions and 16 had to work on an opposition to a motion to dismiss in another case. *Id.* However, plaintiff 17 raised these concerns in his motion for an extension of time, and his motion requested a specific 18 deadline, March 13, 2024. ECF No. 161. That request was granted. Plaintiff has been cautioned 19 on more than one occasion, including during the informal discovery conferences, that given the 20 amount of time that has been devoted to his discovery disputes, extensions of time related to the 21 motions would be sparing and disfavored and that plaintiff might have to make difficult decisions 22 about his priorities.

See, e.g., ECF No. 123 at 2 n.2; ECF No. 130; ECF No. 147. The court has 23 already been generous in granting extensions for plaintiff to file the motion itself, which was 24 comprehensively and extensively briefed. ECF Nos. 149, 151, 154, 156. 25 26 3 The court finds plaintiff's argument that it is without power authority to grant defendant's motion to be without merit.

Although the court has determined that it is unnecessary to grant the 27 motion, it would be well-within its authority to do so, as the circumstances alleged are sufficient to establish excusable neglect. See Fed. R. Civ. P. 6(b)(1)(B) (allowing an extension of time after 28 the fact based on a showing of excusable neglect). 1 Plaintiff also seeks reconsideration of the denial of his request for appointment of counsel 2 for the limited purpose of re-opening discovery and conducting depositions.

ECF No. 164 at 5-6. 3 He argues that while the court is correct that he does not have money to pay for depositions, he 4 should not be penalized because of his indigency. *Id.* The court already considered and 5 addressed plaintiff's indigency in denying appointment of counsel, and the denial of counsel was 6 not based on plaintiff's inability to afford to pay for depositions alone.

It was also based on his 7 failure to demonstrate that re-opening discovery would lead to relevant evidence. ECF No. 163 at 8 3. 9 Local Rule 230(j) requires that a motion for reconsideration state "what new or different 10 facts or circumstances are claimed to exist which did not exist or were not shown upon such prior 11 motion, or what other grounds exist for the motion; and... why the facts or circumstances were 12 not shown at the time of the prior motion." L.R.

230(j)(3)-(4). As set forth above, plaintiff's 13 motions for reconsideration do not present any new or different facts or circumstances that would 14 warrant a different outcome, and the motions will be denied. 15 V. Motion to Compel 16 A. Standards Governing Discovery 17 The scope of discovery under Federal Rule of Civil Procedure 26(b)(1) is broad. 18 Discovery may be obtained

as to “any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” Fed.

R. Civ. P. 26(b)(1). “Information within this scope of discovery need not be admissible in evidence to be discoverable.” *Id.* The court, however, must limit discovery if it is “unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;” or if the party who seeks discovery “has had ample opportunity to obtain the information by discovery;” or if “the proposed discovery is outside the scope permitted by Rule 26(b)(1).” Fed.

R. Civ. P. 26(b)(2)(C). The purpose of discovery is to “make a trial less a game of blind man’s buff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent,” *United States v. Procter & Gamble Co.*, 356 U.S. 677, 682 (1958) (citation omitted), and “to narrow and clarify the basic issues between the parties,” *Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

Under Federal Rule of Civil Procedure 37, a motion to compel may be made if “a party fails to answer an interrogatory submitted under Rule 33; or a party fails to produce documents or fails to respond that inspection will be permitted... as requested under Rule 34.” Fed. R. Civ. P. 37(a)(3)(B)(iii)-(iv).

The party seeking to compel discovery has the burden of showing that the discovery sought is relevant or that its denial will cause substantial prejudice. *Aros v. Fansler*, 754 F. App’x 500, 501 (9th Cir. 2013) (citing *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 8 2002)).

The opposing party is “required to carry a heavy burden of showing why discovery was denied.” *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). Under Federal Rule of Civil Procedure 36, a party may move for a determination as to the sufficiency of an answer or objection to an admission. Fed. R. Civ. P. 36(a)(6). B. Plaintiff’s Allegations The complaint alleges that at an Intra-Departmental Treatment Team (IDTT) meeting on July 12, 2012, Faggianelli, Schwimmer, Silva, Austin, Brida, Shirley, and Thomas retaliated against plaintiff by having him put in administrative segregation based on the false claim that he was a threat to Faggianelli.

ECF No. 1 at 28. Prior to the hearing, plaintiff had been asking Faggianelli and Schwimmer, his mental health clinicians, for renewal of his single-cell chrono based on his PTSD but they refused to discuss or accept health care requests on the issue and became adversarial after learning plaintiff was pursuing legal action. *Id.* at 29-30.

On the day of the meeting, the IDTT did not discuss his mental health issues and only wanted to discuss his legal actions. *Id.* at 30-31. Silva, a member of the committee, became angry when he saw his name in one of plaintiff’s grievances, said they needed to figure out what to do

about plaintiff, 23 and suggested that if Faggianelli or Schwimmer claimed they felt threatened by plaintiff they 24 could have him transferred to a different prison.

Id. at 31. Faggianelli, Schwimmer, and Silva 25 agreed to present the idea to Thomas, Brida, Austin, and Shirley, and if everyone agreed they 26 would send plaintiff to a different prison. Id. at 31-32. An hour and a half after the meeting 27 ended, plaintiff was brought to the program officer where Thomas and Brida told him they had 28 met with Shirley, Austin, Silva, Faggianelli, and Schwimmer and all agreed he had filed too many 1 complaints and grievances and needed to be re-housed in administrative segregation pending 2 transfer to another prison.

Id. at 32. When plaintiff complained, Thomas and Brida told him “See 3 what happens when you try to 602 and sue everyone.” Id. at 32-33. 4 While waiting to be moved to administrative segregation, plaintiff advised Johnson, 5 Solorzano, Farinas, Brida, and Mohamed that he had diarrhea due having been given stool 6 softeners and urgently needed to use the bathroom.

Id. at 41-42. Each defendant, who was aware 7 he was going to administrative segregation for filing grievances, ignored his request and made 8 references to the grievances he had filed. Id. at 41-43. Solorzano and Farinas also told him they 9 were going to throw his property in the trash and proceeded to do so. Id. at 44. When plaintiff 10 told Brida they were retaliating by throwing away his property, Brida told him he could file a 11 grievance because he was not going to interfere, and Mohamed, who was observing, said maybe 12 plaintiff would think twice before filing grievances.

Id. When plaintiff was given his meal, the 13 food was too hard to swallow because he had recently had stomach surgery, and he began 14 choking and vomiting and defecated on himself because he still had not been allowed to use the 15 bathroom. Id. at 45. An inmate worker called “man down” and Johnson, Solorzano, Farinas, 16 Brida, and Mohamed all asked if they should push their alarms for an emergency and began 17 laughing and took no emergency measures while joking that this was all because of plaintiff filing 18 grievances and telling staff he would sue them.

Id. at 45-46. Plaintiff claims that Solorzano, 19 Farinas, Brida, and Mohamed’s disposal of his property interfered with his access to the courts 20 because they disposed of documents that left him to be unable to properly oppose a motion for 21 summary judgment in a then pending case and unable to initiate a separate lawsuit. Id. at 57-58. 22 When Just escorted plaintiff to his administrative segregation cell, the toilet had flooded 23 the cell with feces, urine, and water, and the hot water button on the sink was stuck in the fully on 24 position, causing the cell to be hot and humid.

Id. at 68-69. Plaintiff’s request to be put in a cell 25 without plumbing problems was refused. Id. at 69. Plaintiff then asked Boyd, Lemons, and 26 Cruzen to have maintenance fix the toilet and

faucet, but after confirming the plumbing problems 27 they failed to move him to another cell or do anything about the issues. Id. On July 14, 2012, 28 plaintiff sent Perera a request telling him he had recently had surgery, was being refused a shower 1 or towel, and was unable to use the sink for a bird bath because it was stuck in the on position 2 with scalding hot water, which filled his cell with steam and made it impossible to sleep at night.

3 Id. at 70. He also notified Perera about the toilet and faucet being broken; that he was refused 4 access to his medically prescribed orthopedic shoes, medical wedge pillow, and mattress; and that 5 he needed eating utensils so that he did not have to eat with his fingers. Id. Plaintiff was forced 6 to defecate into empty milk cartons and lunch bags, which could not be disposed of until 7 breakfast or dinner.

Id. at 70-71. On July 15, 2012, Boyd opened the plumbing chase on 8 plaintiff's toilet and manually flushed the toilet, causing it to immediately overflow and flood 9 plaintiff's cell with feces, urine, and sewage that covered the entire floor of the cell and then did 10 nothing to fix the problem. Id. at 71. Plaintiff was eventually taken to speak with Sandy and 11 Perera about his July 14, 2012 request and Sandy scolded him for submitting a request, called it a 12 "snivel sheet," denied all of the issues raised, and threatened to have him thrown out of 13 administrative segregation if he filed any more.

Id. at 71-72. Perera then told plaintiff to stop 14 complaining or there would be a problem. Id. at 72. Neither Sandy nor Perera took any action to 15 fix the conditions in his cell. Id. at 74-75. After about four weeks plaintiff was finally given a 16 plunger to fix his toilet himself after defendants began complaining about how badly his cell was 17 making the tier smell.

Id. at 72. At one point, plaintiff slipped and fell in the feces and sprained 18 his wrist and severely bruised his hip, while the hot and humid conditions caused by the sink 19 sometimes caused him to be unable to sleep for two to three days at a time. Id. at 73. 20 C. Discussion 21 Plaintiff has challenged the responses to 962 requests for discovery. While plaintiff is 22 entitled to challenge discovery responses that he believes are insufficient, considering both the 23 massive scope of his objections and the overwhelming caseload under which this court labors, the 24 court has neither the time nor resources to devote to an extended discussion of each challenged 25 response.

Instead, because there is significant overlap in the requests plaintiff made to 26 defendants, the court will address the disputes that arise with the most frequency. All other 27 responses, even if not explicitly addressed below, have been reviewed and deemed sufficient 28 when considered as a whole with any additional response provided in defendants' opposition to 1 the motion to compel.

2 The court notes that many of plaintiff's objections to defendants' responses are based on 3 his belief that they are being untruthful, and he essentially seeks to have the court compel the 4

responses he believes should have been given based on what he believes the documentation 5 shows or based on his assertion that the allegations of his complaint compel a certain response.

6 Defendants are not required to adopt plaintiff's version of events as the truth, and the court cannot 7 compel a defendant to provide a specific response to a request for admission or interrogatory. If 8 plaintiff believes a response is untruthful, he will be free to attempt to impeach the defendant with 9 any evidence he has to the contrary.

To the extent plaintiff argues that responses are insufficient 10 because defendants must produce documents to support responses to interrogatories or requests 11 for admission or provide narrative responses to requests for admission, he fails to raise a 12 legitimate challenge to the responses because he cannot attempt to expand the scope or type of 13 request by converting it to another type of request in his motion to compel.

14 i. Requests for Admission 15 The court has reviewed plaintiff's challenges to defendants' responses to his requests for 16 admission and finds the responses are sufficient. Defendants have either admitted or denied the 17 requests or stated that they are unable to admit or deny after a reasonable inquiry.

The court also 18 finds that where defendants responded after narrowing the scope of the request, the narrowed 19 responses were appropriate in light of the overbroad nature of the requests.⁴ Similarly, for the 20 requests where defendants raised objections without providing a response, the objections were 21 appropriate, and no further response is required.⁵ Where defendants have admitted or denied a 22 request, the court cannot compel defendants to change their responses, as plaintiff has been 23 previously advised.

For those responses where defendants were unable to admit or deny the 24 request, the court finds they have identified their efforts to inquire into the matter and that their 25 4 Some examples include limiting requests about being disciplined to being disciplined related to 26 misconduct toward inmates or plaintiffs and limiting requests about ability to perform job duties to dates covered by the complaint.

See, e.g., ECF No. 149 at 131, 234-35, 238-39, 247. 27 5 Some examples include objections of relevance related to the Safety Officers Procedural Bill of Rights Act or being sued for unrelated types of conduct (e.g., excessive force). See, e.g., ECF 28 No. 149 at 151-52, 237, 248. 1 efforts were reasonable or the nature of the requests themselves left defendants unable to admit or 2 deny, such as requests related a third-party's intent.

That plaintiff believes they should have done 3 more or consulted specific persons or documents that he believes support the response he is 4 seeking does not render their inquiry unreasonable. 5

ii. Interrogatories 6 The court has reviewed plaintiff's challenges to defendants' responses to his 7 interrogatories and finds the responses are sufficient. This is particularly true for interrogatories 8

that exceeded the limit placed by the Federal Rules of Civil Procedure where a response was 9 nevertheless provided.

Plaintiff's assertions that defendants are being untruthful or evasive in 10 answering the interrogatories because they do not align with what he believes the documentation 11 proves does not render their responses inadequate, particularly when the interrogatory asked what 12 defendant "remembered." The fact that a defendant reviewed documents does not mean that they 13 drew the same conclusions from those documents as plaintiff or that those documents refreshed 14 their recollection, and a response stating that they do not currently recall is both adequate and 15 appropriate where they do not in fact have any recollection of the events.

With respect to 16 plaintiff's interrogatories relating to whether defendants met minimum standards for peace 17 officers, were unable to perform their job functions or were reassigned to administrative duties,⁶ 18 or met the requirements of the Safety Officers Procedural Bill of Rights Act, the court finds these 19 requests to be of little to no relevance to the issues before the court, and defendants are not 20 required to respond.

21 iii. Requests for Production 22 The court has reviewed plaintiff's challenges to defendants' responses to his requests for 23 production and finds the responses are sufficient. Where defendants have stated that responsive 24 documents no longer exist because they were disposed of in the normal course of business, 25 defendants cannot produce documents that do not exist and their responses that no responsive 26 documents exist are sufficiently supported and therefore appropriate.

See ECF No. 160 at 426-28 27 6 All defendants have denied that they were unable to perform their jobs or were reassigned to 28 administrative duties at the times relevant to the complaint. 1 (declaration outlining efforts to locate documents).

The court also finds that defendants' 2 objections to requests for lists of witnesses and their contact information on the grounds that they 3 seek creation of a document not already in existence to be appropriate and those objections are 4 therefore sustained. With respect to responses that state documents are attached where plaintiff 5 claims he did not receive the attachment, defendants have indicated in their opposition that 6 another copy of the documents was provided.

ECF No. 160 at 42-44, 46, 186, 248, 250, 261. 7 Plaintiff has also requested copies of any disciplinary actions against defendants.⁷ ECF 8 No. 149 at 186, 274, 378, 502, 671; ECF No. 151 at 112, 186, 275, 412, 567; ECF No. 154-1 at 9 438; ECF No. 156 at 110, 238, 304, 423, 431. Defendants' objections to these requests and 10 limitation of their responses to disciplinary actions involving similar conduct or misconduct 11 against an inmate—or stating that they have not ever been disciplined—are appropriate, and no 12 further response is required.

Plaintiff has also requested copies of all grievances that allege 13 defendants have violated CDCR policies, procedures, and regulations. ECF No. 149 at 188, 276, 380, 505, 673; ECF No. 151 at 116, 188, 277, 414, 567; ECF No. 154 at 158-59, 271; ECF No. 154-1 at 74, 438; ECF No. 156 at 110, 240, 304, 422, 430. Defendants' objections on the 16 grounds that these requests are overbroad and overburdensome are well taken and these 17 objections are sustained.

See ECF No. 160 at 406-07 (declaration outlining burden of production 18 for non-medical appeals), 416 (declaration outlining burden for medical appeals). Any relevance 19 7 In support of his motion to compel responses related to any complaints or grievances against 20 defendants, plaintiff relies on a discovery order issued by the undersigned in *Johnson v. Sandy*, No. 2:12-cv-2922 JAM AC, 2014 WL 4631642, at *12, 2014 U.S. Dist.

LEXIS 129810, at *7-8 21 (E.D. Cal. Sept. 15, 2014), wherein the defendants were ordered to produce documents related to other allegations of excessive force against them. Plaintiff argues that this case warrants 22 production of documents just as in *Johnson*. ECF No. 149 at 72, 83-84, 99-101, 417-18; 23 ECF No. 151 at 11-12, 14, 27-28, 53-54, 58, 72-74; ECF No. 154 at 20, 23, 45-46, 56-57, 61-63; ECF No. 156 at 5, 12-13, 19, 47, 54, 62, 65.

However, *Johnson* dealt with a claim of excessive 24 use of force, and the defendants in that case were ultimately not required to produce additional documents as there were no responsive documents for three of the defendants and the district 25 judge granted the defendants' motion for reconsideration with respect to the fourth defendant, 26 finding production was not required.

Johnson v. Sandy, No. 2:12-cv-2922 JAM AC, 2014 WL 7335228, 2014 U.S. Dist. LEXIS 178338 (E.D. Cal. Dec. 19, 2014). Considering the lack of 27 similarity in the cases and the ultimate outcome of the discovery dispute, *Johnson* does not persuade the court that production of documents—or further responses to similar interrogatories 28 or requests for admissions—is warranted in this case.

1 of such records is marginal and greatly outweighed by the burden of responding to the requests. 2 The court therefore finds defendants' responses to be sufficient. 3 The court notes that the parties have agreed to submit grievances that were classified as 4 staff complaints to the court for in camera review.

However, as the undersigned advised the 5 parties during an informal discovery conference, the court is not inclined to conduct such a 6 review. Although in some instances such records are relevant and sufficiently proportional to the 7 needs of the case, the court does not find this to be such a case. Based on defense counsel's 8 letters to plaintiff, defendants Muhammad, Lemmons, and Just each had a single staff complaint 9 submitted against them in the ten years preceding the events at issue in the complaint, none of 10 which were sustained, and none of which appear to relate to conduct similar to that alleged in this 11 case.

ECF No. 160 at 367. During the same period, Solorzano had four staff complaints that 12 were not sustained, three of which appear to address conduct (property damaged in a cell search 13 and retaliatory cell searches) that is minimally similar to that alleged in the complaint. Id. at 372. 14 Plaintiff's insistence that all complaints filed against defendants are relevant, regardless of their 15 subject matter, is unreasonable and incorrect.

Moreover, subject matter aside, such a sparse 16 number of complaints over a ten-year period does not demonstrate or support a finding that 17 defendants had a pattern or practice of the conduct at issue such that production should be 18 compelled. 19 Finally, the court finds that plaintiff's requests for defendants' oaths, documents showing 20 civil service numbers, documents showing they met minimum standards to be a peace officer, 21 deposition cover pages, cover pages of civil rights lawsuits were defendants were either a plaintiff 22 or defendant, employment agreements, training certificates and documents, job performance 23 evaluations, documents showing present job position and location, documents showing 24 defendants were unable to perform their job functions or were reassigned to administrative 25 duties,⁸ and documents showing they met the requirements of the Safety Officers Procedural Bill 26 of Rights Act to be of little to no relevance to the issues before the court, and defendants are not 27 8 All defendants have denied that they were unable to perform their jobs or were reassigned to 28 administrative duties at the times relevant to the complaint.

1 | required to produce them. 2 D. Conclusion 3 For the reasons set forth above, plaintiff's motion to compel is denied and defendants are 4 || not required to provide any further responses absent their continuing obligation to supplement 5 || their responses should additional information or documents be discovered. 6 CONCLUSION 7 Accordingly, IT IS HEREBY ORDERED that: 8 1.

Plaintiffs motion to file an oversized brief (ECF No. 127) is GRANTED. 9 2. Plaintiffs motion to file an extended opposition (ECF No. 137) is DENIED as 10 || unnecessary. 11 3. Plaintiffs motion for leave to file a sur-reply and for sanctions (ECF No. 134) is 12 | DENIED. 13 4. Defendants Faggianelli and Schwimmer's motion to withdraw or amend admissions 14 | and for an extension of time to respond to plaintiff's requests for admission (ECF No. 124) is 15 | GRANTED in part and DENIED in part as follows: 16 a. The request for an extension of time is GRANTED, nunc pro tunc, and 17 defendants' responses are deemed timely; and 18 b. The motion to withdraw or amend admissions is DENIED as moot.

19 5. Defendant Perera's motion for an extension of time to respond to requests for 20 || production (ECF No. 125) is DENIED as unnecessary. 21 6. Plaintiffs motion to compel (ECF Nos. 149, 151, 154, 156) is DENIED. 22 7. Plaintiff's motions for reconsideration and court assistance (ECF No. 164, 165) are 23 || DENIED. 24 8. Within forty-five days of the service of this order, the parties may file any dispositive 25 || motions.

26 | DATED: March 31, 2025 27 ~ 28 Atter— Llar—e_ ALLISON CLAIRE UNITED STATES
MAGISTRATE JUDGE

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