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## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

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Wilfredo Bermudez.

James Yates, et al.,

Plaintiff,

Defendants.

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vs.

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) No. CV 1-06-1247-FRZ

ORDER

A review of the record reflects that Defendants' filed a motion to dismiss on October 8, 2009. Thereafter, the Court issued a Wyatt notice to Plaintiff informing him that he was required to respond; the response was due on approximately November 27, 2009. Plaintiff failed to file a response as required. Thereafter, in December of 2009, Defendants filed a notice that Plaintiff failed to file his required response. On January 6, 2010, Plaintiff filed a document stating that he has encountered various problems in obtaining the paperwork he thinks he needs to oppose the motion to dismiss, states that he does not want the case dismissed, and states that he will file his response as soon as possible. The Court has been waiting for a response from Plaintiff for many months. Plaintiff has had since October 8, 2009 to attempt to gather materials and file his response. As of the date of this Order (2/4/10), the Court still has not received a response from Plaintiff; Plaintiff has had nearly four months to file a response. The Court will not permit this dispositive motion to remain pending indefinitely as it has already caused many months of delay in this case. This Court, among many others, voluntarily accepted 15 cases from the Eastern District of California as part of the effort of the Ninth Circuit to expedite the backlog of cases in the Eastern District of California. Allowing this dispositive motion to remain pending has already caused many months of delay in this case, clogs the Court's already heavy docket, and defeats the purpose

of voluntarily accepting cases from the Eastern District of California. As such, Plaintiff will have one final opportunity to file his response to the motion to dismiss. IT IS HEREBY ORDERED that Plaintiff shall file his response to the motion to dismiss no later than February 19, 2010. If Plaintiff fails to file his response by February 19, 2010, the Court will rule on Defendants' motion to dismiss without the benefit of Plaintiff's response and without further notice to Plaintiff. DATED this 4<sup>th</sup> day of February, 2010. United States District Judge