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

Virgil E. Holt,)	CV-1-06-1719-DCB P
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
A. K. Scribner, et al.,)	
)	
Defendants.)	

This Court’s previous Order (Doc. No. 28 at 7 ¶¶3-25) allowed Plaintiff to amend and substitute a Doe Defendant with a named individual, which is the primary gist of the recently lodged Third Amended Complaint. This Court will allow that substitution and order service of process on that Defendant. There is no need for Plaintiff to file an amended complaint to delete and renumber claims that have already been dismissed by this Court’s previous Order; it is a duplicative and unnecessarily time-consuming request to rectify a problem that does not exist.

Accordingly,


IT IS ORDERED that Plaintiff’s Motion to File Third Amended Complaint (Doc. No. 32) is granted in part and denied in part. The Motion is granted in that Doe Defendant #1 is now substituted and named as Defendant MTA/Nurse A. Chacon, nunc pro tunc. The Motion is denied, in the interest of judicial economy, as an unnecessary duplication of this Court’s previous Order dismissing claims and counts, such that the lodged Third Amended

1 Complaint shall be stricken from the record.

2 IT IS FURTHER ORDERED that Defendant MTA/Nurse A. Chacono must answer
3 Counts One, Four, Six, Nine, Ten, Eleven, and Fourteen of the Second Amended Complaint.
4 The Clerk of Court must send Plaintiff a service packet including the Second Amended
5 Complaint (Doc. No. 27), this Order, a Notice of Submission of Documents form, an
6 instruction sheet, and copies of summons and USM-285 forms for Defendant Chacono.
7 Within **30 days** of the date of filing of this Order, Plaintiff must complete and return to the
8 Clerk of Court the Notice of Submission of Documents. Plaintiff must submit with the Notice
9 of Submission of Documents: a copy of the Second Amended Complaint for each Defendant,
10 a copy of this Order for each Defendant, a completed summons for each Defendant, and a
11 completed USM-285 for each Defendant. Plaintiff must not attempt service on Defendants
12 and must not request waiver of service. Once the Clerk of Court has received the Notice of
13 Submission of Documents and the required documents, the Court will direct the United
14 States Marshal to seek waiver of service from each Defendant or serve each Defendant. **If**
15 **Plaintiff fails to return the Notice of Submission of Documents and the required**
16 **documents within 30 days of the date of filing of this Order, the Clerk of Court must,**
17 **without further notice, enter a judgment of dismissal of this action without prejudice.**
18 See Fed. R. Civ. P. 41(b).

19 DATED this 28th day of August, 2009.

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David C. Bury
United States District Judge