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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

Michael Lenoir Smith,)	1:07-cv-1547 SRB
Plaintiff,)	ORDER
vs.)	
Arnold Schwarzenegger, et al.)	
Defendants.)	

There are two motions pending before the Court. On September 7, 2012 Plaintiff filed his Motion and Request to Amend Complaint. (Doc. 52) Accompanying Plaintiff's Motion to Amend was his proposed Fourth Amended Complaint. (Doc. 53) Defendants did not respond in opposition.

On October 17, 2012 Defendants Yates, Hedgpeth, Allison and Cate filed a Motion to Dismiss Plaintiff's Third Amended Complaint and Request that the Court Screen Plaintiff's Fourth Amended Complaint. Plaintiff filed a response.

Because Defendants do not oppose the filing of Plaintiff's Fourth Amended Complaint Plaintiff's motion will be granted and Defendants' Motion to Dismiss the Third Amended Complaint will be denied as moot. The Court will also enter a Screening Order before requiring Defendants to answer or otherwise respond to the Fourth Amended Complaint.

1 Without opposition;

2 IT IS ORDERED granting Plaintiff's Motion and Request to Amend Complaint. (Doc.
3 52) The Fourth Amended Complaint filed September 7, 2012 is now the operative complaint
4 in this case.

5 IT IS FURTHER ORDERED denying Defendants' Motion to Dismiss Plaintiff's Third
6 Amended Complaint as moot. (Doc. 60)

7 IT IS FURTHER ORDERED that any answer or other responsive pleading need not
8 be made to the Fourth Amended Complaint until after this Court issues its Screening Order.

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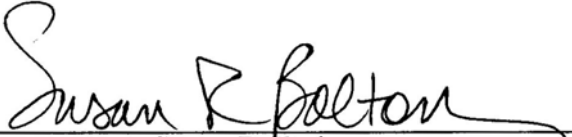
10 DATED this 21st day of November, 2012.

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Susan R. Bolton
United States District Judge

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