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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILLIAM B. PRUITT,

Plaintiff,

v.

CLARK, et al.,

Defendants.

CASE NO. 1:07-cv-01709-AWI-SKO PC

ORDER STRIKING MOTION AS
PROCEDURALLY DEFECTIVE, AND SUA
SPONTE GRANTING DEFENDANT
BONILLA FIFTEEN DAYS WITHIN WHICH
TO FILE A RESPONSE TO PLAINTIFF’S
AMENDED COMPLAINT

(Docs. 8 and 28)

Plaintiff William B. Pruitt, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on November 26, 2007. On April 28, 2011, Defendants Curtiss, Laura, Swimford, and Wan (Defendants) filed an ex parte motion to quash service on behalf of Defendant Bonilla. Defendants cited to no legal authority for their motion, which is one ordinarily brought as a motion to dismiss under Federal Rule of Civil Procedure 12(b)(5), and this failure deprives Plaintiff and the Court of adequate notice of the grounds supporting the motion. Fed. R. Civ. P. 7(b)(1). In addition, the declaration submitted by Defendants in support of their motion is inadmissible because it is unsigned and it fails to comply with Local Rule 131(f).

The motion shall be stricken from the record as procedurally defective. Because Defendant Bonilla’s response to Plaintiff’s amended complaint is due on or before May 2, 2011, the Court will *sua sponte* grant a fifteen-day extension of time to file a response to the amended complaint.

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1 Accordingly, the motion to quash is HEREBY STRICKEN on the ground that it is
2 procedurally defective, and Defendant Bonilla is GRANTED **fifteen (15) days** within which to file
3 a response to Plaintiff's amended complaint.

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5 IT IS SO ORDERED.

6 **Dated:** April 29, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE