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

KELLY MORGAN,

1:08-cv-00233-LJO-GSA-PC

Plaintiff,

ORDER REQUIRING DEFENDANT
HERNANDEZ TO FILE ANSWER
TO THIRD AMENDED COMPLAINT
WITHIN THIRTY DAYS

vs.

(Doc. 45.)

TILTON, et al.,

Defendants.

_____ /

Kelly Morgan (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on February 15, 2008. (Doc. 1.) This case now proceeds on Plaintiff’s Third Amended Complaint, filed on July 28, 2011, against defendant Correctional Officer (C/O) M. Hernandez (“Defendant”) for retaliation and obstruction of mail, in violation of the First Amendment.¹ (Doc. 45.)

On December 22, 2011, Defendant filed a motion to dismiss this action based on Plaintiff’s failure to exhaust administrative remedies before filing suit. (Doc. 57.) On September 28, 2012, the Court issued an order denying Defendant’s motion to dismiss. (Doc. 68.) Defendant is now required to file an Answer to the Third Amended Complaint.

Accordingly, IT IS HEREBY ORDERED that defendant Hernandez is required to file an Answer to the Third Amended Complaint within thirty days from the date of service of this order.

IT IS SO ORDERED.

Dated: October 1, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

¹ All remaining claims and defendants were dismissed from this action by the Court on October 17, 2011, based on Plaintiff’s failure to state a claim. (Doc. 52.)