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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

LATWAHN McELROY,

v.

ROY COX, et al.,

Plaintiff,

Defendants.

Civil No. 1:08-cv-1221 JTM (AJB)
**ORDER SETTING BRIEFING
SCHEDULE FOR DEFENDANTS'
MOTION TO DISMISS**
Doc. No. 15


On August 19, 2008, Plaintiff, an inmate currently incarcerated at California State Prison located in Represa, California and proceeding *pro se* and *in forma pauperis*, filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) Pending before the court is Defendants' motion to dismiss the Complaint under Federal Rule of Civil Procedure 12(b)(6), filed July 8, 2009. (Doc. No. 15.)

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Plaintiff shall file and serve his opposition to the motion **no later than July 31, 2009.** A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion. The moving party may serve and file a reply to the opposition **no later than**

1 **August 14, 2009**, at which time the matter will be taken under submission without oral argument.

2 DATED: July 15, 2009

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4 Hon. Jeffrey T. Miller
United States District Judge

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