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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CARLOS JIMENEZ,

CASE NO. 1:08-cv-01419-SMS PC

Plaintiff,

ORDER DISMISSING  
PLAINTIFF’S MOTION AS MOOT

v.

MARTHA SPAETH,

Defendant.

(Doc. 19)

Plaintiff is a prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. On October 21, 2009, this court entered an order on its own motion (doc. 18), extending the time for plaintiff to file his amended complaint in light of the court’s second order appointing pro bono counsel (doc. 17). On October 23, 2009, the court received plaintiff’s motion, prepared prior to the court’s sua sponte order, to omit claim while reserving right to assert the claim at a later date, or, in the alternative, request for a 45-day extension of time to file amended complaint (doc. 19). Because the court has already entered an order extending the time for plaintiff’s submission of his amended complaint, plaintiff’s motion is moot.

Accordingly, plaintiff’s motion to omit claim while reserving right to assert the claim at a later date, or, in the alternative, request for a 45-day extension of time to file amended complaint is hereby DISMISSED as moot.

IT IS SO ORDERED.

**Dated: October 26, 2009**

**/s/ Sandra M. Snyder**  
UNITED STATES MAGISTRATE JUDGE