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

CARLOS PENA,

Plaintiff,

v.

D. HUCKABAY, et al.,

Defendants.

CASE NO. 1:09-cv-00404-LJO-SKO PC

ORDER REQUIRING PLAINTIFF TO FILE  
OPPOSITION OR STATEMENT OF NON-  
OPPOSITION TO MOTION FOR SUMMARY  
JUDGMENT WITHIN THIRTY DAYS

(Docs. 21 and 22)

Plaintiff Carlos Pena, a former state prisoner proceeding pro se, filed this civil action on September 5, 2008, in Fresno County Superior Court. Defendants Huckabay, Ericson, Tucker, Valencia, and Dever filed a notice of removal on February 27, 2009, 28 U.S.C. § 1441(b), and pursuant to the Court's screening order filed on March 11, 2011, the action is proceeding against Defendants Valencia and Dever on Plaintiff's Eighth Amendment excessive force claim, 28 U.S.C. § 1915A. On March 12, 2012, Defendants filed a motion for summary judgment.

Plaintiff is **HEREBY ORDERED** to file an opposition or a statement of non-opposition to Defendants' motion within **thirty (30) days** from the date of service of this order. **If Plaintiff fails to comply, this action will be dismissed, with prejudice, for failure to prosecute.**

IT IS SO ORDERED.

**Dated: March 14, 2012**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE