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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CARLOS CHAVEZ,

Plaintiff,

v.

SGT. CARLOS, et al.,

Defendants.

CASE NO. 1:09-cv-00744-AWI-SKO PC

ORDER REQUIRING DEFENDANTS TO RE-SERVE MOTION TO DISMISS ON PLAINTIFF AT HIS ADDRESS OF RECORD AND FILE AMENDED PROOF OF SERVICE WITHIN TEN DAYS, AND REQUIRING PLAINTIFF TO FILE OPPOSITION OR STATEMENT OF NON-OPPOSITION TO MOTION WITHIN THIRTY DAYS OF SERVICE

(Doc. 23)

Plaintiff Carlos Chavez, a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 21, 2009. On July 27, 2011, Defendants Chatman and Gonzales filed a motion to dismiss. Fed. R. Civ. P. 12(b)(6). More than twenty-one days have passed and Plaintiff has not responded to the motion.<sup>1</sup> Local Rule 230(l). The Court notes, however, that Defendants served their motion on Plaintiff in care of his parole agent rather than at his address of record in this action.

Accordingly, it is HEREBY ORDERED that:

1. Within **ten (10) days** from the date of service of this order, Defendants shall re-serve their motion to dismiss on Plaintiff at his address of record in this action and file an amended proof of service;

<sup>1</sup> In accordance with the Court’s general practice, Local Rule 230(l) shall continue to govern motion practice in this action, despite Plaintiff’s release from prison.

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- 2. Plaintiff shall file an opposition or a statement of non-opposition to Defendants’ motion to dismiss within **thirty (30) days** from the date of re-service of the motion; and
- 3. If Plaintiff fails to file a response to Defendants’ motion in compliance with this order, this action will be dismissed, with prejudice, for failure to obey a court order and failure to prosecute.

IT IS SO ORDERED.

**Dated:** August 31, 2011

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE