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

ANTHONY CRAIG HUCKABEE,	)	Case No.: 1:09-cv-00749-LJO-BAM PC
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF’S MOTION
	)	REQUESTING COURT TO ORDER
v.	)	DEFENDANTS TO REPLY (ECF No. 92)
	)	
MEDICAL STAFF at CSATF, et al.,	)	
	)	
Defendants.	)	
	)	
	)	

Plaintiff Anthony Craig Huckabee (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, initiated this civil rights action pursuant to [42 U.S.C. § 1983](#) on April 28, 2009. This action proceeds on Plaintiff’s second amended complaint, filed on August 21, 2012, for (1) deliberate indifference to a serious medical need in violation of the Eighth Amendment against Defendants Diaz, McGuinness, Wu, Bhatt, Nguyen, Garcia, Jimenez, Jeffreys, Chief Medical Officer at CSATF, and Chief Pharmacist at CSATF; (2) negligence against Defendants Diaz, Jeffreys, Jimenez; (3) medical malpractice against Defendants McGuinness, Wu, Bhatt and Nguyen; (4) violation of the Unruh Civil Rights Act, California Civil Code § 51, against all defendants; and (5) negligent infliction of emotional distress against all defendants.

On October 7, 2013, Plaintiff filed the instant motion requesting a court order directing Defendants McGuinness, Jeffrey and Jimenez to reply to the summons and complaint. (ECF No. 92.) Plaintiff’s request is premature. Although Plaintiff claims that his former counsel informed him that

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all defendants had been served and had appeared in this action, there is no indication on the Court's docket or from the United States Marshals Service that Defendants McGuinness, Jeffreys and Jimenez have been served with summons and complaint or have returned a waiver of service. Accordingly, Plaintiff's request for an order requiring them to respond to the complaint at this time is DENIED. IT IS SO ORDERED.

Dated: October 10, 2013

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE