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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARVIE B. CARROLL,

Plaintiff,

v.

JAMES A. YATES, et al.,

Defendants.

CASE NO. 1:10-cv-00623-LJO-SKO PC

ORDER DISCHARGING ORDER TO SHOW
CAUSE AND EXTENDING APPLICATION
OF DISCOVERY AND SCHEDULING ORDER
TO DEFENDANT SOTO

(Docs. 42 and 59)

ORDER GRANTING PLAINTIFF THIRTY
DAYS WITHIN WHICH TO RESPOND TO
REQUEST FOR SUBSTITUTION OF T. SOTO
AKA T. BROWN FOR E. SOTO AKA J.
MASUTA

(Doc. 62)

Plaintiff Arvie B. Carroll, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 9, 2010. On May 30, 2012, the Court ordered Defendant Soto to show cause why default should not be entered against her for failing to file a timely response to Plaintiff’s complaint after waiving service of the summons and complaint. Fed. R. Civ. P. 4(d), 12(a)(1)(A)(ii), 55(a).

On June 4, 2012, Jamilah Masuta aka Esther Soto, a licensed vocational nurse, filed a response stating that she mistakenly signed the waiver and that Toni Brown aka Toni Soto, a phlebotomist or specialized lab technician, is the correct defendant in this case. Concurrently, J. Masuta aka E. Soto filed a request to substitute T. Brown aka T. Soto in her place.

Based on this response, the order to show cause is discharged, and application of the discovery and scheduling order filed on February 2, 2012, is extended to T. Soto, who concurrently

1 filed an answer complaint. Plaintiff has thirty days from the date of service of this order to file a
2 response, if any, to E. Soto's request to formally substitute T. Soto as the correct defendant in this
3 action. If no objection is filed, the substitution will be granted in light of the fact that Plaintiff
4 clearly identifies Soto as a lab technician in his complaint.¹

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. The order to show cause, filed on May 30, 2012, is DISCHARGED in its entirety;
- 7 2. Application of the discovery and scheduling order, filed on February 2, 2012, is
8 extended to T. Soto; and
- 9 3. Plaintiff has **thirty (30) days** from the date of service of this order within which to
10 file a response, if any, to E. Soto's request to substitute T. Soto as the proper party.

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14 IT IS SO ORDERED.

15 **Dated: June 5, 2012**

16 /s/ Sheila K. Oberto
17 UNITED STATES MAGISTRATE JUDGE
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28 ¹ Plaintiff did not provide a first name or first initial for Soto.