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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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10 ROBERTO M. GARCIA, JR.,

11 Plaintiff,

12 vs.

13 MATTHEW M. JUAREZ, JR.,

14 Defendant.

1:12-cv-00750-AWI-GSA-PC

ORDER GRANTING DEFENDANT'S
MOTION FOR EXTENSION OF TIME TO
FILE RESPONSIVE PLEADING
(Doc. 27.)

DEADLINE: December 1, 2014

ORDER DISCHARGING ORDER TO SHOW
CAUSE ISSUED ON OCTOBER 30, 2014
(Doc. 28.)

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17 Roberto M. Garcia, Jr. ("Plaintiff") is a state prisoner proceeding pro se and in forma
18 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 8, 2012, Plaintiff
19 filed the Complaint commencing this action. (Doc. 1.) This action now proceeds on the First
20 Amended Complaint against sole defendant Matthew M. Juarez, Jr. ("Defendant") for use of
21 excessive force in violation of the Eighth Amendment. (Doc. 11.)

22 On October 30, 2014, the court issued an order requiring Defendant to show cause why
23 default should not be entered against him for his failure to respond to the First Amended
24 Complaint. (Doc. 28.) Defendant's deadline to file a response was "within 60 days of
25 7/14/14," and the deadline had passed.¹ Fed. R. Civ. P. 12(a), 6(d). (Doc. 26.)

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28 ¹ Defendant executed a Waiver of Service on October 13, 2014, which was filed with the Court by the
United States Marshal on October 14, 2014. (Doc. 26.) The Waiver of Service indicates that "a judgment may be
entered against [Defendant] if an answer or motion under Rule 12 is not filed within the U.S. District Court and
served upon plaintiff within 60 days after 7/16/14." (Id.)

1 On October 28, 2014, Defendant filed a motion for extension of time to file an Answer
2 to the First Amended Complaint. (Doc. 27.) In the motion, Counsel for Defendant (“Counsel”)
3 asserts that his firm was recently retained to represent Defendant in this action and was able to
4 obtain Defendant’s signature on a Waiver of Service on October 13, 2014, which was filed with
5 the court on October 14, 2014. (Declaration of Thomas P. Feher, Doc. 27 at 2 ¶2.) Because the
6 due date for Defendant to file a response to the complaint had already passed when Defendant
7 signed the Waiver of Service, Counsel believed that the court would establish a new due date.
8 (Id. at 2 ¶2.) Counsel then became aware, by the court’s October 14, 2014 entry on the docket,
9 that Defendant’s Answer was due on September 25, 2014. (Id. at 2 ¶3.) Based on these
10 assertions, and due to the press of business, Counsel requests an extension of time on behalf of
11 Defendant to file an Answer. (Id. at 3 ¶4.)

12 The court finds good cause to grant Defendant’s motion for an extension of time.
13 Defendant shall be granted an extension of time until December 1, 2014 in which to file a
14 responsive pleading. The court also finds good cause to discharge the court’s order to show
15 cause issued on October 30, 2014.

16 Accordingly, good cause having been shown to the court, and GOOD CAUSE
17 APPEARING THEREFORE, IT IS HEREBY ORDERED that:

- 18 1. Defendant Matthew M. Juarez, Jr. is GRANTED an extension of time until
19 **December 1, 2014** in which to file a response to the First Amended Complaint;
20 and
- 21 2. The court’s order to show cause, issued on October 30, 2014, is DISCHARGED.

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23 IT IS SO ORDERED.

24 Dated: **November 7, 2014**

25 **/s/ Gary S. Austin**
26 UNITED STATES MAGISTRATE JUDGE
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