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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 KELVIN FELTON,

12 Plaintiff,

13 vs.

14 J. LOPEZ, et al.,

15 Defendants.  
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1:12-cv-01066-AWI-GSA-PC

ORDER GRANTING MOTION FOR  
SCREENING ORDER

ORDER GRANTING EXTENSION OF  
TIME TO FILE RESPONSE TO FIRST  
AMENDED COMPLAINT

(Doc. 69.)

17 **I. BACKGROUND**

18 Kelvin Felton ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis  
19 with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint  
20 commencing this action on June 29, 2012. (Doc. 1.) The court screened the Complaint under  
21 28 U.S.C. § 1915A and issued an order on February 13, 2013, finding that Plaintiff stated  
22 cognizable claims for use of excessive force against defendants Correctional Officer (C/O) J.  
23 Lopez and C/O S. Harrison ("Defendants"). (Doc. 11.) On April 19, 2013, with leave of court,  
24 Plaintiff filed a Supplemental Complaint. (Doc. 22.)

25 On May 2, 2014, defendant Lopez filed a motion to dismiss the Supplemental  
26 Complaint for failure to state a claim, and defendant Harrison filed an Answer. (Docs. 38, 39.)  
27 On August 14, 2014, defendant Lopez filed a motion for summary judgment as to the  
28 Supplemental Complaint, based on exhaustion. (Doc. 50.) On March 4, 2015, the court denied

1 defendant Lopez's motion for summary judgment, and on March 5, 2015, the court denied  
2 defendant Lopez's motion to dismiss. (Docs. 66, 67.) Plaintiff was granted leave to file a First  
3 Amended Complaint, and Defendants were ordered to file an Answer within thirty days of the  
4 date the First Amended Complaint was filed. (Doc. 67.) On March 5, 2015, Plaintiff filed the  
5 First Amended Complaint. (Doc. 68.)

6 On April 3, 2015, Defendants filed a motion requesting the court to screen Plaintiff's  
7 First Amended Complaint under 28 U.S.C. § 1915A and grant Defendants an extension of time  
8 to file a responsive pleading. (Doc.69.) In the alternative, Defendants request the court to  
9 dismiss the First Amended Complaint for failure to state a claim. (Id.)

## 10 **II. DEFENDANTS' MOTION FOR SCREENING AND EXTENSION OF TIME**

11 Defendants inform the court that it does not appear that the court screened the First  
12 Amended Complaint under 28 U.S.C. § 1915A. Defendants request the court to screen the  
13 First Amended Complaint and grant Defendants an extension of time in which to file a  
14 responsive pleading.

15 Defendants are correct that the court is required to screen complaints in civil actions in  
16 which a prisoner seeks redress from a governmental entity or officer or employee of a  
17 governmental entity. 28 U.S.C. § 1915A(a). Plaintiff's First Amended Complaint alleges that  
18 Defendants, employees of the California Department of Corrections and Rehabilitation  
19 (CDCR) at the California Substance Abuse Treatment Facility and State Prison in Corcoran,  
20 California, violated his rights under the United States Constitution. Because Plaintiff is a  
21 prisoner and Defendants were employees of the CDCR when the alleged events occurred, the  
22 court is required to screen the First Amended Complaint. Therefore, Defendants' motion for a  
23 screening order shall be granted. In addition, good cause appearing, the motion for extension  
24 of time shall also be granted.

## 25 **III. CONCLUSION**

26 Based on the foregoing, IT IS HEREBY ORDERED that:

- 27 1. Defendants' motion for the court to screen the First Amended Complaint is  
28 GRANTED, and the court shall issue a screening order in due time; and

2. Good cause appearing, Defendants are GRANTED an extension of time until thirty days from the date of service of the court's screening order, in which to file a response to the First Amended Complaint.

IT IS SO ORDERED.

Dated: **April 6, 2015**

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE