

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

IDRIS NAWABI,

Plaintiff,

V.

CATES, et al.,

## Defendants.

Case No. 1:13-cv-00272-LJO-SAB

ORDER DENYING DEFENDANTS' MOTION TO DISMISS AND PLAINTIFF'S MOTION FOR AN EXTENSION OF TIME AS MOOT

(ECF Nos. 22, 25, 26, 29)

ORDER DIRECTING THE CLERK'S  
OFFICE TO ISSUE NEW CIVIL CASE  
DOCUMENTS AND SUMMONSES

ORDER REQUIRING COUNSEL TO  
APPEAR ON DECEMBER 5, 2014 AT 10:00  
A.M.

Plaintiff Idis Nawabi, a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on February 25, 2013. On October 3, 2014, the Defendants in this action filed a motion to dismiss. (ECF No. 22.) At the time the motion to dismiss was filed, Plaintiff was proceeding pro se and the operative complaint was the First Amended Complaint filed on March 6, 2014. (ECF No. 15.)

After the motion to dismiss was filed, Raymond P. Boucher was substituted as attorney for Plaintiff. (ECF No. 23.) On October 27, 2014, the parties filed a stipulation permitting Plaintiff to file a Second Amended Complaint. (ECF No. 24.) The same day, Defendants filed an amended motion to dismiss, despite the fact that an amended complaint was forthcoming.

1 (ECF No. 25.) Plaintiff also filed a motion for an extension of time to respond to the first motion  
2 to dismiss. (ECF No. 26.)

3 On November 4, 2014, Plaintiff filed a Second Amended Complaint. (ECF No. 28.) The  
4 same day, Plaintiff filed a second motion for an extension of time to respond to Defendants'  
5 motion to dismiss. (ECF No. 29.)

6 An informal telephonic hearing was held on November 6, 2014, to address the  
7 outstanding motion to dismiss and Plaintiff's motions for an extension of time. Counsel  
8 Raymond Boucher appeared for Plaintiff and counsel Stanton Lee appeared for Defendants. The  
9 parties agree that since Plaintiff has filed a second amended complaint, the motion to dismiss is  
10 moot. Accordingly, the Court shall deny the motion to dismiss without prejudice and the  
11 motions for an extension of time.

12 Since Plaintiff was proceeding pro se at the time that this action was filed, the magistrate  
13 judge assigned to the case screened the complaint and ordered service on Defendants B. Borges,  
14 R. Chapnick, Hancock, and Hartley. (ECF No. 19.) As Plaintiff is now represented by counsel,  
15 this action will proceed as a regular civil case. The Court shall direct the Clerk's Office to issue  
16 initial case documents and summonses for those defendants named in the second amended  
17 complaint that have not yet been issued.

18 Finally, counsel for Plaintiff shall appear on December 5, 2014, at 10:00 a.m. in  
19 Courtroom 9 to discuss the coordination of discovery in the related actions. The parties may  
20 appear telephonically. Please contact Mamie Hernandez, Courtroom Clerk, for the  
21 teleconference number and access code.

22 Accordingly, IT IS HEREBY ORDERED that:

23 1. Defendants' motion to dismiss and amended motion to dismiss are DENIED  
24 without prejudice;

25 2. Plaintiff's first and second motion for an extension of time are DENIED;

26 3. The Clerk's Office is DIRECTED to issue summonses to the following  
27 Defendants:

28

1                   **EDMUND G. BROWN, JR.**

2                   **JEFFREY BEARD**

3                   4. The Clerk's Office is directed to issue initial new case documents; and

4                   5. The United States Marshal is DIRECTED to serve a copy of the complaint,

5                   summons, and this order upon the defendants if requested by the plaintiff.

6                   IT IS SO ORDERED.

7                   Dated: November 6, 2014

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE