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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE LEDESMA,

12 Plaintiff,

13 vs.

14 J. TYREE, et al.,

15 Defendants.
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1:13-cv-01227-AWI-EPG-PC

ORDER DENYING MOTION FOR
IMMEDIATE INITIATION OF
SERVICE
(ECF No. 16.)

18 **I. BACKGROUND**

19 Jose Ledesma ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in
20 this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
21 commencing this action on August 7, 2013. (ECF No. 1.)

22 The Court screened the Complaint, found cognizable claims, and issued an order on
23 July 17, 2014, requiring Plaintiff to either file an amended complaint or file a notice that he is
24 willing to proceed with the claims found cognizable by the Court. (ECF No. 9.) On August 11,
25 2014, Plaintiff filed the First Amended Complaint. (ECF No. 10.) On September 21, 2015,
26 Plaintiff filed a motion for leave to amend the complaint, which was granted by the Court on
27 September 23, 2015. (ECF Nos. 12, 13.) On October 13, 2015, Plaintiff filed the Second
28 Amended Complaint. (ECF No. 15.)

1 On December 8, 2015, Plaintiff filed a motion for the court to initiate service of process
2 upon the defendants. (ECF Nos. 7, 8.) Plaintiff's motion is now before the Court.

3 **II. SCREENING AND SERVICE OF PROCESS**

4 The Court is required by law to screen complaints brought by prisoners seeking relief
5 against a governmental entity or officer or employee of a governmental entity, such as the
6 instant action brought pursuant to 42 U.S.C. § 1983. 28 U.S.C. § 1915A(a). The Court must
7 dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
8 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek
9 monetary relief from a defendant who is immune from such relief. 28 U.S.C.
10 § 1915A(b)(1),(2).

11 With respect to service, the Court will, *sua sponte*, direct the United States Marshal to
12 serve the complaint only after the Court has screened the complaint and determined that it
13 contains cognizable claims for relief against the named defendants.

14 Plaintiff requests the Court to initiate service of process of the Second Amended
15 Complaint upon defendants in this action. However, the Second Amended Complaint awaits
16 the Court's requisite screening. Therefore it is not time for service in this action.

17 **III. CONCLUSION**

18 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
19 immediate initiation of service of process, filed on December 8, 2015, is DENIED.

20 IT IS SO ORDERED.

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22 Dated: December 11, 2015

23 /s/ Eric P. Grosz
24 UNITED STATES MAGISTRATE JUDGE
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