UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

FELIPE GARCIA, Plaintiff,) Case No. 1:14-cv-00625-LJO-SAB (PC)) ORDER DIRECTING DEFENDANT TO
v. J. HOBMEIER, et al.,	RESPOND TO COMPLAINT FOLLOWING DISPOSITION OF MOTION FOR SUMMARY JUDGMENT
Defendants.	Responsive Pleading Due Date: September 8, 2017

Plaintiff Felipe Garcia is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's first amended complaint, filed December 23, 2015, against Defendant Emerson for excessive force, and against Defendants Gaona, Hobmeier, and Wildey for failure to protect. (ECF No. 28.)

On August 16, 2016, Defendants filed an ex parte request to file a pre-answer motion for summary judgment. (ECF No. 38.) On August 23, 2016, the Court issued an order granting Defendants' request, and requiring the motion for summary judgment to be filed within sixty days of the date of service of that order. (ECF No. 39.)

On October 19, 2016, Defendants filed a motion for summary judgment for failure to exhaust administrative remedies, which was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. (ECF No. 44.) The parties proceeded to brief the motion for summary judgment.

On July 26, 2017, the undersigned recommended that Defendants' motion be denied. (ECF No. 56.) Plaintiff filed objections to the findings and recommendations on August 9, 2017, (ECF No. 57), and Defendants filed objections on August 24, 2017, (ECF No. 58).

On August 25, 2017, the District Judge adopted the findings and recommendations in full, over the parties' objections. (ECF No. 59.) The August 25, 2017 order was entered by the Clerk of the Court that same day, and electronic notice was immediately provided to defense counsel, while Plaintiff was served with the order by mail.

Defendants' motion for summary judgment having been disposed of, Defendants are now required to file and serve a responsive pleading to the first amended complaint. See Mann v. Lee, No. C 07-00781 MMC (PR), 2009 WL 5178095, at *2 (N.D. Cal. Dec. 22, 2009) (discussing that a motion for summary judgment that adequately contests the action extends the time for a defendant to file a responsive pleading to the complaint until after summary judgment is decided, pursuant to the tolling provisions of Rule 12(a)). Under the relevant provisions of Rule 12(a), a responsive pleading must be served within fourteen days after notice of the Court's disposition of Defendants' motion for summary judgment. See Fed. R. Civ. P. 12(a)(4)(A).

Accordingly, it is HEREBY ORDERED that Defendant file and serve a responsive pleading to Plaintiff's complaint on or before September 8, 2017.

IT IS SO ORDERED.

Dated: **August 28, 2017**

UNITED STATES MAGISTRATE JUDGE

14 S. 15