2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 AVERY HYPOLITE, Case No.: 1:14-cv-01199-LJO-SAB (PC) 12 Plaintiff, ORDER ADOPTING FINDINGS AND RECOMMENDATION, DISMISSING 13 v. DEFENDANT SCHULTZ, WITHOUT PREJUDICE, PURSUANT TO RULE 4(M) OF THE 14 R. ZAMORA, et al., FEDERAL RULES OF CIVIL PROCEDURE 15 Defendants. [ECF No. 28] 16 Plaintiff Avery Hypolite is appearing pro se and in forma pauperis in this civil rights action 17 18 pursuant to 42 U.S.C. § 1983. 19 On November 10, 2015, the magistrate judge issued a Findings and Recommendation 20 recommending dismissal of Defendant N. Schultz for pursuant to Rule 4(m) of the Federal Rules of 21 Civil Procedure. (ECF No. 28.) The Findings and Recommendation was served on Plaintiff and 22 contained notice that objections were to be filed within thirty days. (Id.) On November 25, 2015, 23 Plaintiff filed a motion to compel, and on December 2, 2015, Plaintiff filed objections to the Findings 24 and Recommendation. (ECF Nos. 30, 31.) On December 8, 2015, Plaintiff's motion to compel was denied and in the interest of justice 25

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Schultz would result in dismissal of Defendant Schultz pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Id.) Plaintiff has failed to respond to the Court's December 8, 2015, and has failed to provide additional information to assist in the identification of service of Defendant Schultz. Accordingly, Defendant Schultz must be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Based on the foregoing, it is HEREBY ORDERED that: The Findings and Recommendation filed on November 10, 2015, is ADOPTED in FULL; 2. Defendant N. Schultz is DISMISSED from the action without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. IT IS SO ORDERED. /s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE Dated: **April 11, 2016**