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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 ANTONIO V. MONTANO,

12 Plaintiff,

13 v.

14 DARREL ADAMS, et al.,

15 Defendants.

Case No. 1:15-cv-00452-LJO-SAB (PC)

ORDER DENYING MOTION FOR  
EXTENSION OF TIME TO SERVE  
DEFENDANTS AND CONTINUING  
HEARING ON MOTION TO AMEND THE  
COMPLAINT TO AUGUST 24, 2016

(ECF No. 35)

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17 Plaintiff Antonio V. Montano is a state prisoner proceeding in forma pauperis in this civil  
18 action pursuant to 42 U.S.C. § 1983. On May 25, 2016, an order issued requiring Plaintiffs to  
19 serve the defendants in this action on or before June 30, 2016. (ECF No. 28.) On June 19, 2016,  
20 Plaintiff filed a motion seeking to have this action dismissed and proceed in the consolidated  
21 action of Alaniz v. Schwarzenegger, No. 1:15-cv-01063-LJO-SAB (E.D. Cal.) (ECF No. 34.)  
22 On June 30, 2016, Plaintiff filed a motion for a ninety-two day extension of time to serve this  
23 action. (ECF No. 35.)

24 The Court declines to grant the motion for an extension of time. While Plaintiff seeks to  
25 avoid the costs of service of this complaint, the issue to be addressed in the motion to treat the  
26 Alaniz complaint as the operative complaint may affect the claims that will be able proceed in  
27 this action. Therefore, the Court finds that Defendants should be provided with an opportunity to  
28 address the motion currently set to be decided in this action.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Plaintiff's motion for an extension of time to serve the defendants in this action is  
3 DENIED;
- 4 2. Plaintiff shall serve this complaint and notice of the motion to amend on or before  
5 July 20, 2016;
- 6 3. The hearing set for July 20, 2016, is CONTINUED to August 24, 2016 at 10:00  
7 a.m.; and
- 8 4. Failure to comply with this order may result in the issuance of sanctions.

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10 IT IS SO ORDERED.

11 Dated: July 5, 2016

  
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UNITED STATES MAGISTRATE JUDGE