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8 **UNITED STATES DISTRICT COURT**

9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 **SCOTT K. RICKS,**

12 **Plaintiff,**

13 **v.**

14 **KAMENA,**

15 **Defendant.**

Case No. 1:15-cv-00715-DAD-BAM (PC)

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO COMPLY WITH COURT
ORDER AND FAILURE TO PROSECUTE**

(ECF No. 55)

FOURTEEN (14) DAY DEADLINE

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17 Plaintiff Scott K. Ricks ("Plaintiff") is a former state prisoner proceeding *pro se* and *in*
18 *forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds
19 against Defendant Kamena for failure to protect and deliberate indifference. This matter is set for
20 a telephonic trial confirmation hearing on May 6, 2019, and a jury trial on July 9, 2019.

21 On September 26, 2018, the Court issued a second scheduling order directing Plaintiff to
22 file his pretrial statement and any motion for attendance of incarcerated witnesses on or before
23 April 8, 2019. (ECF No. 55.) This matter was then set for a settlement conference before
24 Magistrate Judge Jennifer L. Thurston on March 4, 2019. (ECF No. 57.) The case did not settle,
25 and therefore the deadlines set in the Court's second scheduling order remained in effect. (ECF
26 No. 61.) The deadline for Plaintiff's pretrial statement and motion for attendance of incarcerated
27 witnesses has expired, and Plaintiff has failed to comply with the Court's scheduling order or to

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1 otherwise communicate with the Court.¹

2 Accordingly, Plaintiff is HEREBY ORDERED to show cause by written response why
3 this action should not be dismissed, with prejudice, for failure to obey the Court's order and for
4 failure to prosecute. Plaintiff's response is due within **fourteen (14) days** from the date of
5 service of this order. If Plaintiff fails to file a response, or the response does not demonstrate
6 good cause, the undersigned will recommend that this matter be dismissed.

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8 IT IS SO ORDERED.

9 Dated: April 18, 2019

/s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff was reminded of his obligation to keep updated on all Court orders, as well as to consider changing his mailing address to ensure that he receives all of his mail. (ECF No. 61.) Plaintiff has not updated his mailing address since May 9, 2018. (ECF No. 48.) Plaintiff was also previously warned that, as a former prisoner, the prison mailbox rule no longer applies to his filings. (ECF No. 55, p. 3 n.1.) As such, Plaintiff's filings are complete only when the papers are *received* by the Clerk of the Court, rather than on the date they are mailed.