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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM FABRICIUS,

Plaintiff,

vs.

TULARE COUNTY, *et al.*,

Defendant.

Case No. 1:15-cv-01779-EPG

**ORDER DIRECTING DEFENDANTS TO
FILE RESPONSIVE PLEADINGS**

**ORDER REGARDING SERVICE OF
PROCESS OF NEW DEFENDANTS**

(ECF No. 75)

On July 24, 2017, *pro se* and *in forma pauperis* Plaintiff William Fabricius (hereinafter, "Plaintiff") filed a Third Amended Complaint ("3AC"). (ECF No. 75). Pursuant to Rule 15(a)(3) of the Federal Rules of Civil Procedure, the Court directs Defendants to file a responsive pleading to the 3AC within 60 days of this order.

The Court previously *sua sponte* suspended Defendants' requirement to respond to Plaintiff's Second Amended Complaint ("2AC") and screened the 2AC pursuant to its authority 28 U.S.C. § 1915(e). (ECF Nos. 73-74). The Court's refusal to screen the 3AC should not be interpreted to mean that the Court has in any way concluded that the claims brought in the 3AC are meritorious and should proceed. Defendants may raise available defenses as they deem appropriate in any manner available under the federal rules.

Rather, the Court notes that Plaintiff's 3AC complies with this Court's order that it be

1 limited to 20 pages, (ECF No. 24, at p. 14), and has responded in some aspects to the Court's
2 prior directions. Accordingly, and because the Court would benefit from the Defendants' input,
3 the Court has declined to screen Plaintiff's 3AC before authorizing a response from defendants.

4 It appears that there are several new Defendants listed in the 3AC.¹ Plaintiff is
5 responsible for filling-out and submitting service documents to the Court for issuance and service
6 by the U.S. Marshal Service only as to any new Defendants listed in the 3AC not previously
7 served with process in this case.

- 8 1. The Clerk of the Court shall send Plaintiff ten (10) USM-285 forms, ten (10)
9 summonses, a Notice of Submission of Documents form, an instruction sheet, and
10 a copy of the Third Amended Complaint filed on July 24, 2017;
- 11 2. Within **thirty days** after the date of this Order, Plaintiff must complete the
12 attached Notice of Submission of Documents and submit the completed Notice to
13 the Court with the following documents:
 - 14 a. Completed summonses;
 - 15 b. A copy of the instant Order;
 - 16 c. One completed USM-285 form for each new defendant; and,
 - 17 d. Ten (10) copies of the endorsed Third Amended Complaint.
- 18 3. Plaintiff need not attempt service on Defendants and need not request waiver of
19 service. Upon receipt of the above-described documents, the Court will direct the
20 United States Marshal Service to serve the above-named defendants pursuant to
21 Federal Rule of Civil Procedure 4 without payment of costs.
- 22 4. Failure to request service of process of any new Defendants may result in
23 dismissal. *See* Fed. R. Civ. P. 4(m) ("If a defendant is not served within 90 days
24 after the complaint is filed, the court—on motion or on its own after notice to the
25 plaintiff—must dismiss the action without prejudice against that defendant or
26 order that service be made within a specified time").

27 ¹ The Court has not determined the exact number of new Defendants listed in the 3AC. If
28 more forms are needed, Plaintiff may file a motion requesting additional service documents.

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5. **Failure to comply with this Order will result in a recommendation that this action be dismissed.**

IT IS SO ORDERED.

Dated: July 31, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE