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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 MIGUEL G. SIFUENTES,

12 Plaintiff,

13 vs.

14 DR. OLA, et al.,

15 Defendants.  
16

1:16-cv-00241-DAD-GSA-PC

ORDER RESCINDING ORDER TO  
SHOW CAUSE  
(ECF No. 41.)

17 Plaintiff Miguel G. Sifuentes is a state prisoner proceeding *pro se* with this civil rights  
18 action pursuant to 42 U.S.C. § 1983. Plaintiff paid the \$400.00 filing fee for this action on  
19 February 25, 2016, and therefore is not proceeding *in forma pauperis*.

20 This case now proceeds with Plaintiff's First Amended Complaint, filed on April 26,  
21 2017, against defendant Dr. Ola ("Defendant") for failure to provide adequate medical care in  
22 violation of the Eighth Amendment.<sup>1</sup> (ECF No. 21.)

23 On May 15, 2019, the court issued an order directing Plaintiff to serve defendant Dr. Ola  
24 with a summons and copy of the First Amended Complaint. (ECF No. 39.) Because Plaintiff is  
25 not proceeding *in forma pauperis* in this case, he was responsible for serving process himself.  
26 Plaintiff was provided with the documents and instructions needed to serve process and was  
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28 <sup>1</sup> All other claims and defendants were dismissed from this action by the court on May 13, 2019,  
based on Plaintiff's failure to state a claim. (ECF No. 38.)

1 ordered to complete service of process within ninety days. (Id.) Plaintiff was advised that after  
2 service of process is completed, he was required to file with the court a proof of service or waiver  
3 of service form demonstrating that service is completed. The ninety-day time period expired and  
4 Plaintiff did not file a proof of service, waiver of service form, or any other response to the court's  
5 order.

6 On September 26, 2019, the court issued an order to show cause requiring Plaintiff to  
7 respond within thirty days, showing cause why this case should not be dismissed for his failure  
8 to effect service upon defendant Dr. Ola. (ECF No. 41.)

9 Plaintiff has not yet responded to the order to show cause. However, on October 11,  
10 2019, defendant Dr. Ola appeared in this case by filing an Answer to Plaintiff's First Amended  
11 Complaint. (ECF No. 42.) Because of Dr. Ola's appearance, the court's order to show cause is  
12 moot and will therefore be rescinded. Plaintiff is no longer required to respond to the order to  
13 show cause, and this case will now proceed.

14 Plaintiff is cautioned that in the future his failure to comply with a court order may result  
15 in the dismissal of his case in its entirety. See Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir.  
16 2002).

17 Accordingly, it is HEREBY ORDERED that:

- 18 1. The court's order to show cause, issued on September 6, 2019, is RESCINDED;
- 19 2. Plaintiff is no longer required to respond to the order to show cause; and
- 20 3. Plaintiff is warned that in the future, his failure to comply with any of the court's  
21 orders may result in the dismissal of this action.

22  
23 IT IS SO ORDERED.

24 Dated: October 15, 2019

/s/ Gary S. Austin  
25 UNITED STATES MAGISTRATE JUDGE