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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO PALACIOS,  
Plaintiff,  
v.  
JEFFREY BEARD, et al.,  
Defendants.

**Case No.: 1:16-cv-00634-MJS (PC)**  
**ORDER DENYING REQUEST TO STAY  
RESPONSIVE PLEADING DEADLINE AND  
DIRECTING DEFENDANTS TO FILE  
RESPONSIVE PLEADING**  
**(ECF No. 15)**  
**TEN (10) DAY DEADLINE**

Plaintiff Francisco Palacios, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 5, 2016. (ECF No. 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (ECF No. 5.)

On August 24, 2016, the Court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A and found that it stated an Eighth Amendment claim against Defendant Ybarra for excessive force and a First Amendment retaliation claim against Defendants Ybarra and Stark. (ECF No. 6). On December 13, 2016, Defendants waived service; they were directed to file an answer on or before January 6, 2017.

On January 5, 2017, Defendants moved for a fourteen day extension of time to file

1 a motion for summary judgment on exhaustion grounds and requested to stay their  
2 responsive pleading pending the outcome of their motion. (ECF No. 12.) On January 20,  
3 2017, Defendants filed a motion for summary judgement. (ECF No. 14.) They also  
4 renewed their request to stay their responsive pleading pending the outcome of their  
5 motion. (ECF No. 15.)

6 While Defendants are certainly free to file a motion for summary judgment at any  
7 time “until 30 days after the close of all discovery,” Fed. R. Civ. P. 56(b), such a motion  
8 does not absolve Defendants of their responsibility to respond to Plaintiff’s complaint.  
9 See Fed. R. Civ. P. 12(b). The obligation to file an answer is not particularly onerous.  
10 Furthermore, an initial review of Defendants’ summary judgment motion indicates that  
11 there may be disputed issues of fact necessitating an evidentiary hearing, rendering the  
12 requested stay lengthy if granted. The Court does not see that the interests of judicial  
13 economy will be served by staying the responsive pleading deadline at this time.

14 . Accordingly, it is HEREBY ORDERED that Defendants’ request to stay the  
15 responsive pleading deadline is DENIED. However, Defendants will be granted ten (10)  
16 days from the date of this order to file their answer.

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18 IT IS SO ORDERED.

19 Dated: January 23, 2017

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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