

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 EVERETT HOLLAND,
12 Plaintiff,
13 vs.
14 C. SCHUYLER, et al.,
15 Defendants.
16
17
18
19
20

1:16-cv-01271-DAD-GSA-PC

ORDER GRANTING DEFENDANTS'
REQUEST FOR SCREENING ORDER

ORDER GRANTING EXTENSION OF
TIME FOR DEFENDANTS TO FILE
RESPONSE TO FIRST AMENDED
COMPLAINT

(ECF No. 21.)

21 This is a civil action filed by Everett Holland ("Plaintiff"), a state prisoner proceeding
22 pro se. This action was initiated by civil complaint filed by Plaintiff in the Kern County
23 Superior Court on September 29, 2015 (Case #BCV 15 101147 DRL). On August 26, 2016,
24 defendants Esmond, Haak, Hunley, Maciejewski, and Schuyler ("Defendants") removed the
25 case to federal court by filing a Notice of Removal of Action pursuant to 28 U.S.C. § 1441(c).
26 (ECF No. 1.)

27 On August 22, 2017, the court screened the Complaint under 28 U.S.C. § 1915A and
28 issued an order dismissing the Complaint for failure to state a claim, with leave to amend.

1 (ECF No. 13.) On November 20, 2017, Plaintiff filed the First Amended Complaint. (ECF No.
2 20.)

3 On December 1, 2017, Defendants requested the court to screen Plaintiff's First
4 Amended Complaint under 28 U.S.C. § 1915A and grant Defendants an extension of time in
5 which to file a responsive pleading. (ECF No. 21.) On January 8, 2018, Plaintiff filed an
6 opposition to Defendants' request for extension of time. (ECF No. 22.)

7 The Court is required to screen complaints in civil actions in which a prisoner seeks
8 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C.
9 § 1915A(a). Plaintiff's First Amended Complaint alleges that Defendants, employees of the
10 California Department of Corrections and Rehabilitation (CDCR) at California Correctional
11 Institution in Tehachapi, California, violated his civil rights under the Fourteenth Amendment
12 of the United States Constitution. Because Plaintiff is a prisoner and Defendants were
13 employees of the CDCR at a state prison when the alleged events occurred, the court is
14 required to screen the complaint. Therefore, Defendants' motion for the court to screen the
15 First Amended Complaint shall be granted.

16 Plaintiff opposes Defendants' request for extension of time arguing that this case has
17 been pending since September 29, 2015, and Defendants have had ample time to file an answer
18 to the complaint. Plaintiff argues that he will be prejudiced if there is further delay.

19 Notwithstanding Plaintiff's opposition, the court finds good cause to grant Defendants
20 an extension of time. Requiring Defendants to file an answer before the court has completed
21 the screening process will not prejudice Plaintiff as the court's screening will decide which
22 Defendants and claims, if any, are allowed to move forward. Until the screening is completed
23 the court finds no good reason to require Defendants to answer the complaint, and any delay is
24 expected at this stage of the proceedings. Therefore, good cause appearing, the motion for
25 extension of time shall also be granted.

26 Based on the foregoing, IT IS HEREBY ORDERED that:

- 27 1. Defendants' request for the court to screen the First Amended Complaint is
28 GRANTED, and the Court shall issue a screening order in due course;

