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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO AMADOR GONZALEZ,

Plaintiff,

v.

DR. SCHARFFENBERG, et al.,

Defendants.

Case No. 1:16-cv-01675-DAD-EPG (PC)

ORDER DENYING DEFENDANTS’  
REQUEST FOR SCREENING ORDER  
UNDER 28 U.S.C. SECTION 1915A AND  
FOR AN EXTENSION OF TIME TO FILE  
RESPONSIVE PLEADING AND  
GRANTING DEFENDANTS AN  
ADDITIONAL 10 DAYS TO FILE  
RESPONSIVE PLEADING

(ECF NO. 61)

Mario Gonzalez (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case was initially filed in the Central District of California. It was transferred to the Eastern District of California on November 4, 2016. (ECF No 56). On November 21, 2016, defendants Archuleta, Chan, Devine, Padilla, Scharffenberg, Sherman, and Soto (collectively, “Defendants”) filed a request for a screening order under 28 U.S.C. section 1915A and for an extension of time to file a responsive pleading. (ECF No. 61).

Plaintiff filed his second amended complaint on June 1, 2016. (ECF No. 25). Magistrate Judge Andrew J. Wistrich then issued an order directing service of process by the United States

1 Marshal Service on certain defendants.<sup>1</sup> (ECF No. 26). Specifically, the order states “**Pursuant**  
2 **to 42 U.S.C. § 1997e(g)(2), defendants are directed to respond to the [second amended**  
3 **complaint] within the time provided by the applicable provisions of Rules 4 and 12 of the**  
4 **Federal Rules of Civil Procedure.”** (*Id.* at p. 2) (emphasis in original). Section 1997e(g)(2)  
5 states that “[t]he court may require any defendant to reply to a complaint brought under this  
6 section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.”

7 As Judge Wistrich has already determined that Plaintiff has a reasonable opportunity to  
8 prevail on the merits of his complaint, the Court will not second guess that decision by doing  
9 what would amount to a second screening of the complaint.

10 As to Defendants’ request for thirty days from the dating of the screening order to file a  
11 responsive pleading, that request will be denied because there will be no screening order.  
12 Defendants’ responsive pleading is currently due on November 25, 2016. (ECF Nos. 51 & 56).  
13 However, the Court will grant Defendants an additional ten days to file a responsive pleading.

14 Accordingly, it is ORDERED that Defendants’ request for screening order under 28 U.S.C.  
15 section 1915A and for an extension of time to file a responsive pleading is DENIED.

16 It is further ORDERED that Defendants have until **December 5, 2016** to file a responsive  
17 pleading.

18 IT IS SO ORDERED.

19  
20 Dated: November 22, 2016

/s/ Eric P. Gray  
21 UNITED STATES MAGISTRATE JUDGE

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25 <sup>1</sup> The Court notes that several defendants named in Plaintiff’s second amended complaint were not ordered  
26 to be served, including Edmund G. Brown Jr., Kelly Harrington, and J. Beard/Scott Kernay. The order (ECF No. 26)  
27 does not state why Edmund G. Brown Jr., Kelly Harrington, and J. Beard/Scott Kernay were not ordered to be  
28 served. The Court’s understanding is that Magistrate Judge Wistrich determined that the claims against those  
defendants did not state a viable cause of action, and this Court intends to follow that decision without independently  
reviewing it. If the Plaintiff wishes to be heard on that issue, Plaintiff should file a motion with this Court.