1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MICHAEL JACOBSEN, Case No. 1:17-cv-00101-BAM (PC) 12 Plaintiff. ORDER DISCHARGING ORDER TO SHOW CAUSE WHY DOE DEFENDANTS SHOULD 13 NOT BE DISMISSED v. 14 MALDINADO, (ECF No. 15) 15 Defendant. ORDER REQUIRING PLAINTIFF TO SUBSTITUTE DOE DEFENDANTS OR FILE 16 STATUS REPORT WITHIN FORTY-FIVE (45) **DAYS** 17 Plaintiff Michael Jacobsen ("Plaintiff") is a state prisoner proceeding pro se and in forma 18 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to 19 20 magistrate judge jurisdiction. (ECF No. 4.) 21 On June 8, 2017, the Court issued a screening order finding that Plaintiff had stated a 22 cognizable claim against Defendants Maldinado, Doe #1, Doe #2, and Doe #3 and directing Plaintiff to provide the Court with written notice identifying Doe Defendants with enough 23 information to locate defendants for service of process. (ECF No. 8.) When Plaintiff failed to 24 provide such written notice, the Court issued an order requiring Plaintiff to show cause why Doe 25 26 Defendants should not be dismissed for failure to prosecute. (ECF No. 15.) 27 In the meantime, Plaintiff filed a response to the Court's order to show cause regarding 28 service of process on Defendant Maldinado. (ECF No. 17.) Pursuant to that submission, the

Court granted Plaintiff a final opportunity to file written notice identifying Doe Defendants or a response stating why he is unable to do so. (ECF No. 19.)

On October 5, 2017, Plaintiff filed the instant response to the Court's September 21, 2017 order to show cause. (ECF No. 21.) Plaintiff states that he has no way of discovering the names of the Doe Defendants until discovery is open in this case, and once discovery is open he will be able to obtain the names of the Doe Defendants through discovery requests to the Defendant. Plaintiff further states that he believes good cause exists to extend the time to identify the Doe Defendants until 60 to 90 days after discovery begins. (Id.) The Court directed the U.S. Marshals Service to serve Defendant Maldinado on September 29, 2017, the day Plaintiff submitted the appropriate service documents. Thus, the deadline for service by the U.S. Marshals Service is January 2, 2018. (ECF No. 20.)

The burden is on Plaintiff to discover the identity of the Doe Defendants, and to amend his complaint to substitute a name for each of the unnamed correctional officers. At this time, the Court declines to wait until Defendant Maldinado is served to seek the identity of the Doe Defendants, and disagrees that their names are "unattainable" until that time.

Therefore, Plaintiff will be permitted forty-five (45) days to either file a motion to substitute the Doe Defendants, or file a status report explaining the actions he took to locate the name of Doe Defendants. Any extension of that period will require a showing of good cause, and a failure to comply with that order shall result in a dismissal of the Doe Defendants. Thus, Plaintiff should seek to discover the identity of Doe Defendants and move to substitute their names into the case as soon as possible. Plaintiff may be able to locate names from incident reports, Rules Violation Reports, his central file, or other documents available for Plaintiff to review.

Based on the foregoing, it is HEREBY ORDERED that:

- 1. The Order to Show Cause issued on September 21, 2017 (ECF No. 15), is DISCHARGED;
- 2. Within **forty-five** (45) days from the date of service of this order, Plaintiff SHALL either:
 - a. File a file a motion to substitute the identities of the Doe Defendants, or

1	b. File a status report explaining the actions he took to locate the names of Doe
2	Defendants;
3	3. Any extension of the deadline set in this order must be sought from the Court before the
4	deadline expires, and must be supported by a showing of good cause;
5	4. If Plaintiff fails to comply with this order, the Court will dismiss the Doe Defendants
6	for failure to obey a court order and failure to prosecute.
7	IT IS SO ORDERED.
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9	Dated: October 6, 2017 /s/ Barbara A. McAuliffe UNITED STATES MAGISTRATE JUDGE
10	UNITED STATES MAGISTRATE JUDGE
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