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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LAMAR SINGLETON, SR.,

12 Plaintiff,

13 vs.

14 DR. FORTUNE, et al.,

15 Defendants.
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1:17-cv-00124-DAD-GSA-PC

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND DEEMING ANSWER
TIMELY FILED
(ECF No. 40.)

17 **I. BACKGROUND**

18 Lamar Singleton, Jr. (“Plaintiff”) is a state prisoner proceeding pro se with this civil
19 rights action pursuant to 42 U.S.C. § 1983. This case now proceeds with the First Amended
20 Complaint filed on February 19, 2016, against defendant Fortune (“Defendant”) on Plaintiff’s
21 medical claim pursuant to the Eighth Amendment. (ECF No. 25.)

22 On March 16, 2017, the court issued an order requiring Defendant to show cause why
23 he had not filed a responsive pleading pursuant to the court’s order issued on January 27, 2017.
24 (ECF No. 40.) On March 17, 2017, Defendant filed an Answer and a declaration in response to
25 the order to show cause. (ECF Nos. 41, 42.)

26 **II. RESPONSE TO ORDER TO SHOW CAUSE**

27 Counsel for Defendant (“Counsel”) responds that he inadvertently failed to file a timely
28 responsive pleading for Defendant pursuant to the court’s order of January 27, 2017. (Feser

1 Decl. ¶5.) He takes full responsibility for the error and cites a heavy caseload which likely
2 contributed to his failure to file the response. (Id. ¶5.)

3 Federal courts have inherent power to impose sanctions against both attorneys and
4 parties for "bad faith" conduct in litigation or for "willful disobedience" of a court order.
5 Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991); Roadway Express, Inc. v. Piper, 447 U.S.
6 752, 764-66 (1980). Here, the court finds no evidence of bad faith or willful disobedience by
7 Counsel in failing to comply with the court's order of January 17, 2017. Counsel has diligently
8 and promptly responded to the court's order to show cause and filed an Answer in compliance
9 with the court's order of January 17, 2017. Therefore, the court's order to show cause shall be
10 discharged without imposing sanctions, and Defendant Fortune's Answer, filed on March 16,
11 2017, shall be deemed timely filed.

12 **III. CONCLUSION**

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The court's order to show cause, issued on March 16, 2017, is DISCHARGED
15 without imposing sanctions; and
- 16 2. Defendant Fortune's Answer, filed on March 16, 2017, is DEEMED timely
17 filed.

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19 IT IS SO ORDERED.

20 Dated: March 17, 2017

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