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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 PAUL FREE,

12 Plaintiff,

13 v.

14 DR. NADER PEIKAR, et al.,

15 Defendants.
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CASE NO. 1:17-cv-00159-AWI-MJS (PC)

**ORDER REQUIRING PLAINTIFF TO
SHOW CAUSE WHY DEFENDANT
METTRI SHOULD NOT BE DISMISSED**

THIRTY (30) DAY DEADLINE

17 Plaintiff is a federal prisoner proceeding pro se in this civil rights action brought
18 pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388 (1971). The Court screened
19 Plaintiff's Eighth Amended Complaint and found that it stated a cognizable claim against
20 Defendants Dr. Peikar, Ms. Mettri, Ms. Fuentes-Arce, and Mr. Tyson. (ECF Nos. 12, 32.)

21 Defendants Peikar, Fuentes-Arce, and Tyson have been served and have
22 answered the complaint. (ECF No. 16.) There is no record of service on Defendant
23 Mettri.

24 Plaintiff is not proceeding in forma pauperis in this action. He is required to serve
25 the defendants or obtain a waiver of service, and to file a proof of service with the Court.
26 Fed. R. Civ. P. 4(l). Furthermore, Federal Rule of Civil Procedure 4(m) provides, in
27 pertinent part: "If a defendant is not served within 90 days after the complaint is filed, the
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1 court--on motion or on its own after notice to the plaintiff--must dismiss the action without
2 prejudice against that defendant or order that service be made within a specified time.
3 But if the plaintiff shows good cause for the failure, the court must extend the time for
4 service for an appropriate period."

5 Here, service of the complaint is overdue. Accordingly, Plaintiff will be required,
6 within **thirty days** of the date of this order, to either serve Defendant Mettri and file proof
7 of service with the Court, or show cause why Defendant Mettri should not be dismissed
8 without prejudice for failure to serve him in compliance with Rule 4(m). If Plaintiff either
9 fails to respond to this order or responds but fails to show cause, the Court will
10 recommend that Defendant Mettri be dismissed from the action.

11 Based on the foregoing, it is HEREBY ORDERED that:

- 12 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall
13 either serve Defendant Mettri and file proof of service with the Court, or
14 show cause why Defendant Mettri should not be dismissed from this
15 action; and
- 16 2. If Plaintiff fails to respond to this order or fails to show cause, the Court will
17 recommend that Defendant Mettri be dismissed from this action.

18 IT IS SO ORDERED.
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20 Dated: March 25, 2018

/s/ Michael J. Seng
21 UNITED STATES MAGISTRATE JUDGE
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