

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TRENELL MONSON,  
Plaintiff,  
v.  
UNKNOWN FLOOR OFFICERS,  
Defendants.

Case No. 1:17-cv-00395-AWI-EPG (PC)

## ORDER OPENING LIMITED DISCOVERY

## 120 DAY DEADLINE

UNKNOWN FLOOR OFFICERS,  
Defendants.

Trenell Monson (“Plaintiff”) is a pretrial detainee being held at Fresno County Jail. He is proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now proceeds on Plaintiff’s Second Amended Complaint (ECF No. 10) against defendants Unknown Officer 1 and Unknown Officer 2 on Plaintiff’s claim for failure to protect in violation of the Fourteenth Amendment. (ECF Nos. 11 & 12).

As there are currently no defendants that have been identified in this case, the Court will open limited discovery for the purpose of identifying and getting a service address for defendants Unknown Officer 1 and Unknown Officer 2 (the Court recognizes that such discovery may pose privacy issues, which may necessitate *in camera* review or sealing of documents).

Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

1. Discovery is open for the limited purpose of identifying and getting a service address for defendants Unknown Officer 1 and Unknown Officer 2;
  2. If Plaintiff does not identify and provide a service address for defendants Unknown Officer 1 and Unknown Officer 2 within 120 days from the date of service of this order, the Court will issue findings and recommendations, recommending that all defendants that Plaintiff has not yet identified and provided a service address for be dismissed from this case, without prejudice,

1 for failure to serve;<sup>1</sup> and

2 3. Discovery shall proceed as follows:

- 4 a. With the Court's permission, Plaintiff may serve third party subpoenas,  
5 including on the Fresno County Sheriff's Office, if Plaintiff seeks  
6 documents from entities that are not presently defendants in this case.  
7 To issue a subpoena on this entity, or any other third parties, Plaintiff  
8 must file a request for the issuance of a subpoena *duces tecum* with the  
9 Court. If the Court approves the request, it may issue Plaintiff a  
10 subpoena *duces tecum*, commanding the production of documents from a  
11 non-party, and may command service of the subpoena by the United  
12 States Marshal Service. Fed. R. Civ. P. 45; 28 U.S.C. 1915(d).  
13 However, the Court will consider granting such a request *only if* the  
14 documents sought from the non-party are not equally available to  
15 Plaintiff and are not obtainable from Defendant(s) through a request for  
16 production of documents. Fed. R. Civ. P. 34. In any request for a  
17 subpoena, Plaintiff must: (1) identify with specificity the documents  
18 sought and from whom; and (2) make a showing in the request that the  
records are only obtainable through that third party; and
- 19 b. If any third party withholds a document on the basis of privilege, that  
20 third party shall provide a privilege log to the requesting party  
21 identifying the date, author, recipients, general subject matter, and basis  
22 of the privilege within **fourteen (14) days** after the date that responses  
23 are due. Failure to provide a privilege log within this time shall result in  
24 a waiver of the privilege. To the extent the requesting party disputes  
25 whether a document is privileged, it can raise that issue in a motion to  
26 compel further discovery responses. If a third party withholds a

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28 <sup>1</sup> The Court notes that, upon motion by Plaintiff, this deadline can be extended for cause, including the  
need to file motions to compel further discovery responses.

1 document on the basis of the official information privilege, the  
2 requesting party may request that the Court conduct an *in camera* review  
3 of such document so that the Court can balance the moving party's need  
4 for the document in the litigation against the reasons that are asserted in  
5 defending its confidentiality. In any such request for *in camera* review,  
6 the party requesting review shall identify, with specificity, the  
7 document(s) for which review is sought.

8  
9 IT IS SO ORDERED.

10 Dated: November 20, 2017

/s/ *Eric P. Groj*

11 UNITED STATES MAGISTRATE JUDGE