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3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF CALIFORNIA

5 TRENELL MONSON,  
6

7 Plaintiff,

8 v.

9 UNKNOWN FLOOR OFFICERS,  
10

11 Defendants.

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

ORDER OPENING LIMITED  
DISCOVERY

120 DAY DEADLINE

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

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

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

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

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

3. Discovery shall proceed as follows:

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

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<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.  
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9 IT IS SO ORDERED.

10 Dated: November 20, 2017

11 /s/ Eric P. Gorsj  
12 UNITED STATES MAGISTRATE JUDGE  
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