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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARLENE SMITH,

Plaintiff,

v.

STATE OF CALIFORNIA [CALIFORNIA
DEPARTMENT OF CORRECTIONS AND
REHABILITATION],

Defendant.

Case No. 1:17-cv-01058-LJO-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND EXTENDING TIME
FOR SERVICE OF COMPLAINT

(ECF Nos. 16, 17)

NINETY DAY DEADLINE

Plaintiff Earline Smith filed this civil right action pursuant to 42 U.S.C. § 1983 on August 8, 2017, against the California Department of Corrections and Rehabilitation (“CDCR”) and several unidentified defendants. (ECF No. 1.) On September 29, 2017, CDCR filed a motion to dismiss that was granted on November 29, 2017. (ECF Nos. 7, 15.) The November 29, 2017 order advised Plaintiff that the unidentified defendants were to have been served within ninety days of the issuance of the summons to comply with Rule 4 of the Federal Rules of Civil Procedure. (ECF No. 15.)

On December 12, 2017, the undersigned issued an order requiring Plaintiff to show cause why this action should not be dismissed for failure to identify and serve the remaining defendants within the 90 days as required by Rule 4(m) of the Federal Rules of Civil Procedure. (ECF No. 16.) On December 22, 2017, Plaintiff filed a reply requesting an additional 180 days

1 to identify and serve the remaining defendants. (ECF No. 17.)

2 The Court finds good cause to extend time to serve the unidentified defendants, but the
3 time requested is excessive given that this action has already been pending for approximately
4 four months; and Plaintiff was advised in the November order that service of the unidentified
5 defendants was an issue. Plaintiff shall be given an additional ninety days in which to serve the
6 unidentified defendants in this action.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The order to show cause filed December 12, 2017, is DISCHARGED;
- 9 2. The time for Plaintiff to serve the summons and complaint in this action pursuant
10 to Rule 4 of the Federal Rules of Civil Procedure is extended to ninety (90) days
11 from the date of entry of this order; and
- 12 3. Plaintiff is advised that failure to serve the defendants in compliance with this
13 order will result in the recommendation that any unserved defendant be dismissed
14 from this action.

15 IT IS SO ORDERED.

16 Dated: December 26, 2017

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19 UNITED STATES MAGISTRATE JUDGE
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