1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 STACY ROJAS, et al., No. 1:17-cv-01514-DAD-JLT 12 Plaintiffs. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS 13 v. 14 EDMUND G. BROWN, JR., et al., (Doc. No. 48) 15 Defendants. 16 Stacy Rojas, Ivett Ayestas, Sarah Lara, and Claudia ("Isaac") Medina¹ are or were at one 17 time incarcerated at Central California Women's Facility. Plaintiffs contend they each were 18 19 assaulted by employees of the California Department of Corrections and Rehabilitation. 20 Defendant Timothy Tegtmeyer seeks dismissal of the claims brought against him by plaintiffs 21 pursuant to Rule 12(b)(5) of the Federal Rules of Civil Procedure, for failure to timely effect 22 service. (Doc. No. 39 at 1.) In addition, defendant Tegtmeyer seeks to join the defendants' 23 previously filed motion for misjoinder and motion to dismiss. (*Id.*) 24 On October 5, 2018, the magistrate judge issued findings and recommendations finding that plaintiffs failed to demonstrate good cause for their failure to comply with the service 25 26 deadline. (Doc. No. 48 at 5.) However, the magistrate judge also observed that Rule 4(m) of the 27 On March 15, 2019, the undersigned adopted the findings and recommendations of the 28

1 Federal Rules of Civil Procedure "permits a district court to enlarge the time for service 'even if 2 there is no good cause shown." (Id.) (quoting Henderson v. United States, 517 U.S. 654, 658 n.5 3 (1996)). The findings and recommendations noted that service upon defendant Tegtmeyer was 4 accomplished, and that the delay in service would not hamper his ability to defend the claims 5 brought against him in light of the current procedural posture of the action. (Id. at 6.) Therefore, 6 the magistrate judge recommended that defendant Tegtmeyer's motion to dismiss for untimely 7 service be denied. In addition, the magistrate judge recommended that defendant Tegtmeyer's 8 request to join the prior motion be granted in light of plaintiffs' non-opposition. (*Id.* at 7.) 9 Plaintiffs were given fourteen days to file objections to the recommendations. (*Id.*) To 10 date, no objections have been filed and the time period for doing so has expired. 11 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court conducted a de 12 novo review of the case. Having carefully reviewed the file, the court finds the findings and 13 recommendations are supported by the record and proper analysis. 14 Accordingly, 1. The findings and recommendations issued October 5, 2018 (Doc. No. 48) are 15 16 adopted in full; 17 2. Defendant Tegtmeyer's motion to dismiss pursuant to Rule 12(b)(5) (Doc. No. 39) 18 is denied; 19 3. Defendant Tegtmeyer's request to join the other defendants' prior motion for 20 misjoinder and to dismiss is granted; and 21 4. The Clerk of the Court shall file a copy of this order in *Medina v. Kernan et al.*, 22 Case No. 1:19-cv-00345-DAD-JLT. 23 IT IS SO ORDERED. 24

Dated: **March 18, 2019**

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