1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 CASE NO. 1:17-cv-01610-LJO JLT (PC) DAVID LEE BROCK, 12 ORDER DISCHARGING ORDER TO Plaintiff, **SHOW CAUSE**; 13 **ORDER GRANTING PLAINTIFF'S** 14 v. REQUEST FOR INSTRUCTION; AND 15 TUOLUMNE COUNTY SHERIFF'S ORDER DENYING AS MOOT OFFICE, et al., 16 PLAINTIFF'S MOTION TO AMEND 17 (Docs. 25, 26, 29) Defendants. 18 THIRTY-DAY DEADLINE 19 20 On January 9, 2019, the Court screened plaintiff's second amended complaint and found it 21

On January 9, 2019, the Court screened plaintiff's second amended complaint and found it to state cognizable claims against Does 1, 2, and 3, deputies of the Tuolumne County Sheriff's Office ("TCSO") who booked plaintiff into jail. (Doc. 21.) Since plaintiff did not know the identities of these individuals, plaintiff's request to serve a subpoena on the TCSO was granted, and the TCSO was directed to submit a response within 30 days of service. The subpoena was executed on January 11, 2019. (Doc. 22.)

On February 28, 2019, plaintiff filed a notice claiming that he had not yet received any documents from the TCSO. (Doc. 23.) In response, this Court issued an Order to Show Cause to

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1	the TCSO why it should not be held in contempt for failure to comply with the subpoena. (Doc.
2	24.) Based on the Tuolumne County Counsel's response to the Order to Show Cause as well as an
3	updated notice filed by plaintiff, it appears responsive documents have now been served on
4	plaintiff. ¹ Accordingly, the Order to Show Cause is discharged.
5	In a subsequent filing titled "Request for Further Instruction" (Doc. 29), plaintiff asks
6	whether he should file the documents received from the TCSO with the Court. Generally, such
7	documents are <u>not</u> to be filed with the Court until and unless they are in dispute.
8	Plaintiff also moves to amend his complaint to substitute the real names of the Doe
9	defendants. In addition, plaintiff seeks to clarify certain factual details in his pleading and to add
10	new defendants. Considering the procedural posture of this case and plaintiff's right to amend his
11	pleading once as a matter of course, see Fed. R. Civ. P. 15(a)(1), this motion will be denied as
12	moot. The Court thus ORDERS that:
13	1. The March 12, 2019, Order to Show Cause (Doc. 26) is DISCHARGED ;
14	2. Plaintiff's motion to amend (Doc. 25) is DENIED as moot. Plaintiff shall file his third
15	amended complaint within thirty days from the date of this Order;
16	3. Plaintiff's request for further instruction (Doc. 29) is GRANTED ; and
17	4. The Clerk of Court is directed to serve a copy of this Order on counsel for County of
18	Tuolumne:
19	Lynn A. Garcia Spinelli, Donald & Nott
20	601 University Avenue, Suite 225 Sacramento, CA 95825
21	IT IS SO ORDERED.
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23	Dated: April 25, 2019 /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE
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27	¹ Plaintiff is correct that TCSO's response was mailed to him on February 12, 2019, slightly beyond the 30-day deadline set forth in the Court's Order. While the response was indeed untimely, the Court declines to impose

sanctions on the TCSO for this brief delay.