

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIAMICHAEL DE'ANDRAE FLOWERS,
Plaintiff,
v.
COUNTY OF FRESNO, et al.,
Defendants.

Case No. 1:19-cv-01027-NONE-JLT (PC)

**ORDER GRANTING PLAINTIFF 90 DAYS
TO IDENTIFY JANE DOE**

(Doc. 14)

This action proceeds on Eighth Amendment medical indifference claims against Defendants CO Toon and Does 1–3. (See Doc. 15.) Although plaintiff has stated a claim against Does 1–3, the Court will not require service on these defendants at this time. The Ninth Circuit has held that where identity is unknown prior to the filing of a complaint, the plaintiff should be given an opportunity through discovery to identify the unknown defendants unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds. *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)).

Accordingly, the Court **GRANTS** Plaintiff **90 days** in which to discover the name of Does 1–3 through subpoena or otherwise, and to substitute these defendants' actual names by filing a "notice of substitution." See *Wakefield*, 177 F.3d at 1163. If, within 90 days, Plaintiff fails

1 to file a notice of substitution that provides the actual name of the Doe defendants, the Court will
2 recommend dismissal of his claims against these defendants without prejudice.

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4 IT IS SO ORDERED.

5 Dated: September 10, 2021

6 /s/ Jennifer L. Thurston
7 CHIEF UNITED STATES MAGISTRATE JUDGE
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