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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY JAMES PORTER,
Plaintiff,
v.
O. RIVAS,
Defendant.

Case No. 1:22-cv-105-NODJ-CDB (PC)
**ORDER GRANTING REQUEST TO
SCREEN PLAINTIFF’S FIRST
AMENDED COMPLAINT**
(Doc. 44)

Plaintiff Larry James Porter is a state prisoner proceeding pro se in this civil rights action filed under 42 U.S.C. § 1983. This action proceeds on Plaintiff’s Eighth Amendment deliberate indifference to serious medical needs claim against Defendant Rivas.

I. INTRODUCTION

Following screening and service of Plaintiff’s complaint, Defendant filed an answer on August 9, 2023. (Doc. 28.)

Shortly thereafter, the Court issued its Order Referring Case to Post-Screening ADR and Staying Case for 90 Days. (Doc. 30.) The parties agreed to participate in an early settlement conference (Doc. 36); however, a settlement was not achieved (Docket Entry 40 [minute order]). Thus, the Court issued its Discovery and Scheduling Order on November 21, 2023. (Doc. 41.)

On January 30, 2024, Plaintiff lodged a first amended complaint. (Doc. 43.) On February 2, 2024, Defendant filed a Request for Screening Plaintiff’s First Amended Complaint Under the

1 Prison Litigation Reform Act. (Doc. 44.) The Court deems a response by Plaintiff to be
2 unnecessary.

3 **II. DISCUSSION**

4 Defendant requests this Court screen Plaintiff's first amended complaint pursuant to the
5 Prison Litigation Reform Act ("PLRA") because it "alleges at least four new claims and
6 declaratory relief, and it is unclear whether these new claims pertain to the incident allegedly
7 involving Defendant Rivas." (Doc. 44 at 1-2.) Additionally, Defendant requests a 30-day
8 extension of time following the Court's issuance of a screening order within which to file a
9 responsive pleading. (*Id.* at 2.)

10 The Court is required to screen complaints brought by prisoners seeking relief against a
11 governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
12 Plaintiff has recently lodged a first amended complaint.¹ (Doc. 43.) As Defendant asserts, a
13 cursory review of the first amended complaint reveals it asserts additional claims against
14 Defendant. (*Id.* at 6-8.) The Court will screen Plaintiff's first amended complaint in due course.²
15 *See, e.g., Harris v. Neve*, No. 1:19-cv-01338-AWI-JLT (PC), 2021 WL 4077973, at *1 (E.D. Cal.
16 Sept. 6, 2021) (defendant's request for the court to screen plaintiff's third amended complaint
17 granted because screening is mandatory under the PLRA). Following screening, and assuming the
18 first amended complaint is found to present cognizable claims, the Court will direct Defendant to
19 file a responsive pleading within 30 days.

20 **III. CONCLUSION AND ORDER**

21 For the reasons given above, **IT IS HEREBY ORDERED** that:

22 1. Defendant's request for screening of the first amended complaint (Doc. 44) is

23 **GRANTED;**

24 2. The Clerk of the Court is **DIRECTED** to file the first amended complaint;

25
26 ¹ Plaintiff's first amended complaint was lodged, not filed, with this Court. And Plaintiff did not file a
27 motion for leave to file an amended complaint. Nevertheless, in light of PLRA requirements and
28 Defendant's request, the Court finds such a motion unnecessary.

² This Court is one of the busiest district courts in the nation. The undersigned and all judges in this district
carry heavy caseloads in all manner of cases. Regrettably, delays are unavoidable.

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- 3. Plaintiff's first amended complaint will be screened in due course; and
- 4. Once the Court has determined that any amended complaint presents cognizable claims, Defendant will be directed to file a responsive pleading within 30 days.

IT IS SO ORDERED.

Dated: February 5, 2024


UNITED STATES MAGISTRATE JUDGE