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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MILOS LEUBNER,

Plaintiff,

No. 2:08-cv-0853 GEB JFM PS

vs.

COUNTY OF SAN JOAQUIN,
et al.,

Defendants.

ORDER

_____ /

Defendant Holden has requested leave of court to file a motion to dismiss plaintiff's third amended complaint. Defendant Mazzerra joined in the request. Defendant contends that plaintiff filed the third amended complaint while the case was on interlocutory appeal and argues that the third amended complaint does not comport with this court's prior orders. Plaintiff opposes the requests.

By order filed November 12, 2009, the court screened plaintiff's third amended complaint and directed defendants to file an answer. Further motions to dismiss would delay this case. Accordingly, defendants will not be granted leave to file a motion to dismiss.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Defendant Holden’s November 20, 2009 request is denied; the December 2,
3 2009 answer is deemed timely filed; and
4 2. Defendant Mazzerra’s November 23, 2009 request for joinder is denied;
5 defendant Mazzerra shall file an answer within seven days from the date of this order.

6 DATED: December 10, 2009.

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9 UNITED STATES MAGISTRATE JUDGE

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