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

JOSE VILLANUEVA,

Plaintiff (elect),

v.

WARDEN D.K. SISTO, ASSOCIATE
WARDEN'S SINGH, RODRIGUEZ
CAPT. S. PECK, LT'S
SORIOANO, WONG, FERGUSON, R.
BENDER, CHIRILLA, SGT'S
DURFEY, GOOD, MARTINEZ,
BROOM, E. MAJOR, BESS, C/O'S
1-50, "FREE STAFF' DOES 1-
25, SGT'S CUMMINS, BROOM, R.
MITCHELL, ET AL.,

Defendants.

CV-08-0860-EFS (PC)

**FIRST INFORMATIONAL ORDER
IN PRISONER CIVIL RIGHTS
CASE**

Plaintiff is a state prisoner proceeding pro se in this civil rights action. In litigating this action, all litigants, including those proceeding pro se, must comply with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court, Eastern District of California. **Failure to comply with the Federal Rules of Civil Procedure, the Local Rules, or a Court Order, including this Order, is grounds for appropriate sanctions, including dismissal of the action.** Fed. R. Civ. P. 41(b); LR 11-110.

This Order highlights specific rules often applicable to pro se civil rights actions:

1 1. Documents intended to be filed with the Court by pro se
2 litigants must be mailed to the Clerk of the Court, United States
3 District Court, 501 I Street, Room 4-200, Sacramento, California
4 95814. LR 5-133(d) (1). **All documents mailed improperly to a judge's**
5 **chambers will be stricken.**¹

6 2. Each document submitted for filing must include the original
7 signature of the filing litigant(s). Fed. R. Civ. P. 11(a); LR 7-131.
8 **All documents submitted without the required signature(s) will be**
9 **stricken.** Each separate document must be bound separately at the top
10 left corner. LR 7-130(b). If a document is bound behind another
11 document, it will not be filed or entered on the Court docket. A
12 document requesting a Court order must be styled as a motion, not a
13 letter. Fed. R. Civ. P. 7. Documents submitted to the Court may be
14 either typewritten or handwritten, but must be legible, and writing
15 shall be on one (1) side of the page only. LR 7-130 (modified).
16 Every document submitted to the Court must include your name, address
17 and prisoner identification number in the upper left-hand corner of
18 the first page. LR 7-132.

19 3. You are not required to send this Court copies of your
20 documents submitted for filing. LR 5-133(d) (2) (modified). If the
21 filing litigant wishes the Court to return a file-stamped copy, he
22 must include one copy for that purpose AND a pre-addressed postage
23 paid envelope. The Court cannot provide copies or mailing service for
24 a litigant, even for an indigent plaintiff proceeding in forma
25 pauperis. Copies of documents may be obtained from the Court file by
26 contacting Attorney's Diversified Services at 741 N. Fulton Street,
27

28 ¹ When a document is stricken, it becomes a nullity and is not
considered by the Court for any purpose.

1 Fresno, California 93728, 800-842-2695.

2 4. After Defendants have appeared by filing a response to the
3 complaint (i.e., an answer, a motion to dismiss, or a motion for
4 summary judgment), and are represented by the Office of the California
5 State Attorney General, Plaintiff is not required to serve copies of
6 filings on Defendants or counsel, as counsel will receive service via
7 the Court's electronic filing system. Any documents filed in a civil
8 rights action in which Defendants are **not** represented by the
9 California State Attorney General must include a certificate of
10 service stating that a copy of the document was served on the opposing
11 litigant. Fed. R. Civ. P. 5; LR 5-135 (modified). **A document**
12 **submitted without the required proof of service will be stricken.**
13 Where a litigant is represented by private or other government
14 counsel, service on the litigant's attorney of record constitutes
15 effective service. A sample Proof of Service form is attached hereto.

16 5. All filings must bear the file number assigned to the action,
17 followed by the initials of the District Judge to whom the case is
18 assigned and the letters "PC." Where Plaintiff simultaneously pursues
19 more than one action, he must file separate original documents and the
20 appropriate number of copies in each action to which the document
21 pertains. **Documents submitted listing more than one case number in**
22 **the caption will be stricken.**

23 6. The Court cannot serve as a repository for the parties'
24 evidence (i.e., prison or medical records, witness affidavits, etc.).
25 Litigants may not file evidence with the Court until the course of
26 litigation brings the evidence into question (for example, on a motion
27 for summary judgment, at trial, or when requested by the Court).
28 **Evidence improperly submitted to the Court will either returned or**

1 **stricken.**

2 7. The Eastern District of California converted to an electronic
3 filing, service, and storage system, effective January 3, 2005. Pro
4 se litigants are exempt from the electronic filing requirement and
5 must submit all documents to the Court in paper. LR 5-133(b)(2).
6 Paper documents submitted by pro se litigants for filing will be
7 scanned into the electronic court file by the Clerk's Office. After
8 being scanned into the electronic court file, the paper documents will
9 be retained in the Clerk's Office for a limited period of time and
10 then discarded. LR 39-138(d). For this reason, pro se litigants are
11 cautioned not to send original exhibits to the Court. When it is
12 appropriate for pro se litigants to submit exhibits to the Court (see
13 paragraph 6), the litigants shall retain their original exhibits and
14 send photocopies to the Court.

15 8. After an answer is filed, the Court will issue an order
16 opening discovery, and setting the deadlines for completing discovery,
17 amending the pleadings, and filing pre-trial dispositive motions. **No**
18 **discovery may be conducted without Court permission until an answer**
19 **is filed and the Court issues the discovery order.** Discovery
20 propounded on a litigant is self-executing, and must be served
21 directly on the litigant from whom discovery is sought; litigants
22 should not file copies of their discovery with the Court. LR 33-250,
23 34-250, 36-250. **Discovery documents inappropriately submitted to the**
24 **Court will be stricken.** Where the discovery response is
25 unsatisfactory, the litigant seeking discovery may file a motion to
26 compel discovery, including a copy of the discovery propounded and the
27 response thereto. Fed. R. Civ. P. 37. A motion to compel must be
28 accompanied by "a certification that the movant has in good faith

1 conferred or attempted to confer with the litigant not making the
2 disclosure in an effort to secure the disclosure without court
3 action." Fed. R. Civ. P. 37(a)(1). In addition, at least ten (10)
4 days before the hearing, the litigants must file either: (1) a joint
5 statement of conferment in good faith together with a list and
6 description of unresolved issues or (2) individual statements
7 describing efforts to confer together with a list and description of
8 unresolved issues. Statements must not exceed ten (10) pages without
9 first obtaining the District Judge's approval. **A discovery motion**
10 **that does not comply with all applicable rules will be stricken and**
11 **may result in the imposition of sanctions.**

12 9. Because Plaintiff is incarcerated and proceeds pro se, all
13 pre-trial motions will be submitted without a hearing. LR 78-230(m).
14 Litigants are referred to Local Rule 78-230(m) for the briefing
15 schedule on motions.

16 10. All deadlines will be strictly enforced. Requests for time
17 extensions must state the reason the extension is needed and must be
18 filed with the Court **before** the deadline in question. LR 6-144.

19 11. A pro se plaintiff has an affirmative duty to keep the Court
20 and opposing parties apprised of his address. LR 83-182(f). If a
21 plaintiff moves and fails to file a notice of change of address,
22 service of Court orders at Plaintiff's prior address shall constitute
23 effective notice. *Id.* If mail directed to Plaintiff is returned by
24 the U.S. Postal Service as undeliverable, the Court will not attempt
25 to re-mail it. **If the address is not updated within sixty (60) days**
26 **of the mail being returned, the action will be dismissed for failure**
27 **to prosecute.** LR 83-183(b). A Notice of Change of Address Form is
28 attached hereto.

1 12. The Court is required to screen complaints brought by
2 prisoners seeking relief against a governmental entity or officer or
3 employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court
4 must dismiss a complaint or portion thereof if the prisoner has raised
5 claims that are legally "frivolous or malicious," that fail to state
6 a claim upon which relief may be granted, or that seek monetary relief
7 from a defendant who is immune from such relief. 28 U.S.C.
8 § 1915A(b) (1), (2). The Court will direct the United States Marshal
9 to serve Plaintiff's complaint only after the Court has screened the
10 complaint and determined that it contains cognizable claims for relief
11 against the named Defendants. The Court will notify you as soon as
12 any action is taken in your case. Due to the large number of civil
13 actions pending before the Court, the Clerk is unable to respond in
14 writing to individual inquiries regarding the status of your case.
15 As long as you keep the Court apprised of your current address, you
16 will receive all decisions affecting your case status.

17 As noted, the requirements set forth in Local Rules 5-130, 5-
18 133(d) (2), and 7-135 have been modified in this Order. These
19 modifications apply to civil rights and habeas cases filed in the
20 Fresno division of the Eastern District of California by prisoners
21 proceeding pro se.

22 **IT IS SO ORDERED.** The District Court Executive is directed to
23 enter this Order and provide a copy to Plaintiff.

24 **DATED** this 5th day of January 2009.

25
26 s/ Edward F. Shea
27 _____
EDWARD F. SHEA
United States District Judge

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