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

ANTHONY PASSER,

Plaintiff,

No. 2:08-cv-2792 MCE KJN P

vs.

DR. STEEVERS, et al.,

ORDER

Defendants.

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Recently appointed counsel for plaintiff requests the assistance of the court in identifying the first names or initials of defendants Coleman and Azevedo. For the reasons set forth herein, the request is granted.

This action proceeds against defendants Mehta, Rosales, Alchek, Azevedo and Coleman. Defendants Mehta and Rosales have been served process and appeared in this action. (Dkt. Nos. 64, 70.) However, the United States Marshal has been unable to serve process on defendants Alchek, Azevedo and Coleman, due to inadequate service information, particularly the absence of a first name or initial. By order filed October 18, 2012, this court directed plaintiff, then proceeding without counsel, to provide, within 60 days, the information necessary to serve process on defendants Alchek, Azevedo and Coleman. (Dkt. No. 71.) The court directed plaintiff to promptly seek such information through discovery, the California Public

1 Records Act, California Government Code Sections 6250 et seq., or other available means. (Id.
2 at 2.) The court noted that, “[i]f access to the required information is denied or unreasonably
3 delayed, plaintiff may seek judicial intervention.” (Id.)

4 A week later, attorney Beth Helen Hodess assumed representation of plaintiff.
5 (Dkt. No. 72.)

6 Plaintiff’s counsel states that she believes she has secured the information
7 necessary to serve process on defendant Altchek, a physician, through the California Medical
8 Licensing Board. However, counsel states that, despite her best efforts, she has been unable to
9 obtain any information necessary to serve process on defendants Azevedo and Coleman,
10 including their first names or initials. Counsel recounts that she has attempted to obtain this
11 information from the following sources: the California Medical Facility Litigation Coordinator,
12 the California Correctional Peace Officers Association Legal Department, the California
13 Department of Corrections and Rehabilitation Personnel Office, the California Association of
14 Prison Legal Guards Legal Department, and Deputy Attorney General Mr. Scott Foley, counsel
15 for defendants Rosales and Metha. Counsel opines that defendant Rosales likely possesses
16 identifying information for defendants Azevedo and Coleman, because they shared a working
17 relationship.

18 Counsel requests that the court direct defendant Rosales to disclose to Mr. Foley
19 the first names or initials of these defendants, and to direct Mr. Foley in turn to disclose the
20 information to plaintiff’s counsel. Alternatively, plaintiff’s counsel requests that the court
21 compel the California Medical Facility or California Department of Corrections and
22 Rehabilitation to produce the employment records or work history for the Housing Officers
23 working in CMF’s Facility N-2, in 2006. Counsel avers that defendants Coleman and Azevedo
24 are critical to plaintiff’s action.

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1 The court finds that plaintiff and his counsel have shown due diligence in seeking
2 to obtain the subject information in this four-year-old case. Accordingly, for good cause shown,
3 IT IS HEREBY ORDERED that:

4 1. Plaintiff's request for judicial intervention (Dkt. No. 73), is granted.


5 2. Within thirty (30) days after the filing date of this order, Mr. Scott Foley,
6 Deputy Attorney General, is directed to obtain, through any reasonable means or sources,
7 including defendant Rosales and/or officials with the California Department of Corrections and
8 Rehabilitation (including but not limited to the California Medical Facility), the first names of
9 defendants Coleman and Azevedo, and shall then provide such information to plaintiff's counsel.
10 The first initials of defendants Coleman and Azevedo shall be provided only if their first names
11 cannot be determined with reasonable effort. In addition, Mr. Foley shall, to the extent possible,
12 obtain and provide to plaintiff's counsel any current information about these defendants that may
13 be helpful to the United States Marshal in effecting service of process upon them.

14 3. Also within thirty (30) days after the filing date of this order, Mr. Foley shall
15 file a statement with the court indicating whether the subject information was duly obtained, and
16 timely provided to plaintiff's counsel.

17 4. Plaintiff need not submit the information for serving process on defendant
18 Alchek until such time that plaintiff can also submit the information necessary for serving
19 process on defendants Coleman and Azevedo, or until further order of this court.

20 SO ORDERED.

21 DATED: December 17, 2012

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23 
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

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