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

KRZYSZTOF F. WOLINSKI,
Plaintiff,
vs.
MIKE D. McDONALD, et al.,
Defendants.

No. CIV S-11-1932-GEB-CMK-P
ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for an extension of time to file his amended complaint (Doc. 29), motion to file an amended complaint (Doc. 22), motions regarding service of defendants (Docs. 13, 25), and motion for default judgment (Doc. 16).

Plaintiff has already been granted leave to file an amended complaint as the court found his original complaint insufficient, as outlined in the court’s November 16, 2011, order. As such, no further leave of court is necessary and his motion to file an amended complaint will be disregarded as unnecessary. As to plaintiff’s motions for service and entry of default, the court has found plaintiff’s claims defective, again as outlined in the court’s prior order. Until such time as plaintiff can cure the defects noted by the court, no service of any of the defendants

1 will be authorized and the motions requesting such will be denied. Similarly, until service has
2 been authorized, the defendants properly served, and sufficient time has passed for the
3 defendants to respond to the complaint, no entry of default is appropriate. See Fed. R. Civ. Proc.
4 55. Until a defendant's default is entered, no motion for default judgement will be considered.
5 Plaintiff's motion for default judgment is premature, and will be denied.

6 Finally, plaintiff is requesting additional time to file his amended complaint, as
7 previously authorized. Good cause appearing therefor, the request will be granted. Plaintiff shall
8 file an amended complaint within 30 days of the date of this order. Plaintiff is again warned that
9 failure to file an amended complaint within the time provided may result in dismissal of this
10 action for lack of prosecution and failure to comply with court rules and orders. See Local Rule
11 110.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's motions for service of the complaint (Docs. 13, 25) are denied;
- 14 2. Plaintiff's motion for default judgment (Doc. 16) is denied as premature;
- 15 3. Plaintiff's motion for leave to file an amended complaint (Doc. 22) is
16 disregarded as unnecessary;
- 17 4. Plaintiff's motion for an extension of time to file his amended complaint
18 (Doc. 29) is granted; and
- 19 5. Plaintiff shall file an amended complaint within 30 days of the date of this
20 order.

21
22 DATED: December 8, 2011

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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