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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK BUMPUS,  
Plaintiff,  
v.  
A. NANGALAMA, et al.,  
Defendants.

No. 2:12-cv-1102 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding through counsel with an action under 42 U.S.C. § 1983. On December 8, 2017, defendants filed a motion for summary judgment. (ECF No. 62.) On December 21 and again on January 26, the parties filed stipulations to extend the time for filing the opposing and reply briefs. (ECF Nos. 63, 65.) Based on the parties’ stipulations, plaintiff’s opposition brief was due on February 26, 2018.<sup>1</sup> In an order signed March 5, 2018 and filed March 6, the court required plaintiff to show cause why this case should not be dismissed for his failure to file an opposition to defendants’ summary judgment motion. (ECF No. 70.) Also on March 5, plaintiff filed a motion for an order shortening time to hear his motion for an extension of time to file an opposition. (ECF No. 69.) Based on plaintiff’s motion, the court will vacate the order to show cause.

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<sup>1</sup> While the court ordered an extension of time based on the first stipulation (ECF No. 64), the court has not addressed the second stipulation.

1 In counsel's declaration attached to the motion for an order shortening time, plaintiff's  
2 counsel states that she contacted counsel for defendants and was told defendants were "not sure"  
3 if they would oppose shortened time. (ECF No. 69-1 at 2.) However, it does not appear that  
4 plaintiff's counsel asked defendants' counsel whether defendants would stipulate to a third  
5 extension of time to file an opposition to the motion for summary judgment. In addition,  
6 plaintiff's counsel has not provided a copy of the motion for an extension of time to file an  
7 opposition.


8 The court finds a formal motion and shortened time are not typically necessary where one  
9 party seeks an extension of time. The better course is to seek a stipulation from the opposing side  
10 for the extension of time and, if the opposing party is unwilling to stipulate, a motion for an  
11 extension of time.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The court's March 6, 2018 Order to Show Cause (ECF No. 70) is vacated;
- 14 2. Plaintiff's March 5, 2018 Motion for an Order Shortening Time (ECF No. 69) is  
15 denied as unnecessary; and
- 16 3. Within seven days of the filed date of this order, counsel for plaintiff shall: (a) confer  
17 with defendants' counsel to determine whether defendants are willing to stipulate to a  
18 third extension of time; and (b) file either a stipulation for such extension or a motion  
19 for an extension of time.

20 Dated: March 13, 2018

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DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE