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

CARLOS R. AGUIRRE,

Plaintiff,

No. 2:12-cv-2165 KJN P

vs.

COUNTY OF SACRAMENTO, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel. On December 10, 2012, defendants filed a motion to dismiss. On December 26, 2012, plaintiff filed a motion for extension of time to file and serve an amended complaint in response to defendants' motion to dismiss. On January 3, 2013, plaintiff filed an amended complaint naming the same defendants named in the original complaint. On January 4, 2013, defendants filed a statement of non-opposition to plaintiff's request for extension of time to file an amended complaint. Because defendants do not object, the court grants plaintiff's request for extension of time, and finds plaintiff's amended complaint to be timely filed. The pending motion to dismiss is based on the original complaint; therefore, the motion is denied without prejudice to its renewal.

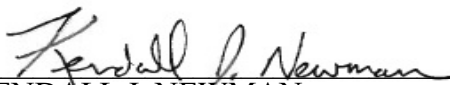
On December 14, 2012, plaintiff re-filed the motion styled as a motion for class certification, and asks the court to certify the complaint as a class action. However, plaintiff's

1 prior motion was denied on October 17, 2012, because plaintiff is a non-lawyer proceeding
2 without counsel. (Dkt. No. 11.) Plaintiff has not retained counsel. Thus, for the reasons set
3 forth in this court's October 17, 2012 order, plaintiff's motion is denied.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's motion for an extension of time (dkt. no. 17) is granted;
- 6 2. Plaintiff's January 3, 2013 amended complaint (dkt. no. 21) is deemed timely
7 filed;
- 8 3. Defendants' December 10, 2012 motion to dismiss (dkt. no. 13) is denied
9 without prejudice;
- 10 4. Plaintiff's December 14, 2012 motion (dkt. no. 15) is denied; and
- 11 5. Defendants shall file an answer or responsive motion within fourteen days
12 from the date of this order.

13 DATED: January 8, 2013

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15 
16 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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