

1 appropriate for several defendants, including Rivas, Garcia and Wilson.

2 Eventually, plaintiff filed the First Amended Complaint, which named, among others,
3 Payne, Garcia, Rivas and Wilson. ECF No. 29. All defendants other than Payne, Garcia, Rivas
4 and Wilson moved to dismiss. ECF No. 31. Defendant then moved for leave to file a Second
5 Amended Complaint, and requested an order for service of that complaint on Payne, Garcia,
6 Rivas and Wilson. ECF Nos. 39 & 40. The undersigned recommended that the district judge
7 grant in part and deny in part defendants' motion to dismiss the First Amended Complaint, and
8 grant plaintiff's motion to file a Second Amended Complaint. ECF No. 41.

9 The undersigned deferred plaintiff's request for service of the Second Amended Complaint
10 on Payne, Garcia, Rivas and Wilson, until after the Findings and Recommendations were
11 reviewed by the district judge. Id. The district judge adopted the Findings and
12 Recommendations, and referred the motion for service back to the magistrate judge. ECF No. 42.
13 All defendants other than Payne, Garcia, Rivas and Wilson (these four not having been served),
14 have now answered the Second Amended Complaint. ECF No. 44.

15 The court has previously screened the original complaint, and found that, for screening
16 purposes, it stated claims against Garcia, Rivas and Wilson. The Second Amended Complaint
17 similarly states claims against those three, and service upon them will be ordered. See ECF
18 No. 45. As for defendant Payne, the Second Amended Complaint alleges that Payne
19 affirmatively prevented plaintiff from using his authorized accommodations, which, as Payne
20 knew, plaintiff needed to enter a bus without severe injury to himself. Payne also threatened
21 plaintiff with violence for asserting his right to an accommodation. ECF No. 45 ¶¶ 74-76. As a
22 direct result, plaintiff severely injured himself getting on the bus, and suffered severe pain. Id.,
23 ¶¶ 79-82. Plaintiff's allegations are sufficient, for screening purposes, to state claims against
24 Payne. See 28 U.S.C. § 1915A. Accordingly, the court will order service of the Second
25 Amended complaint upon Payne.

26 Good cause appearing, IT IS HEREBY ORDERED that:

27 1. Plaintiff's motion for an order of service of the Second Amended Complaint (ECF
28 No. 50), is GRANTED. Service of the amended complaint is appropriate for the following

1 defendants: D. Wilson, S. Garcia, A. Rivas and A. Payne.

2 2. Plaintiff's earlier motion for an order of service of the Second Amended Complaint
3 (ECF No. 40), is DENIED as moot.

4 3. The Clerk of the Court shall send plaintiff four (4) USM-285 forms, one summons, an
5 instruction sheet, and a copy of the Second Amended Complaint filed September 30, 2014.

6 4. Within thirty days from the date of this order, plaintiff shall complete the attached
7 Notice of Submission of Documents and submit all of the following documents to the court at the
8 same time:

9 a. The completed, signed Notice of Submission of Documents;

10 b. One completed summons;

11 c. One completed USM-285 form for each defendant listed in number 1 above; and

12 d. Five (5) copies of the endorsed Second Amended Complaint filed September 30,
13 2014.

14 5. Plaintiff shall not attempt to effect service of the amended complaint on defendants or
15 request a waiver of service of summons from any defendant. Upon receipt of the above-described
16 documents, the court will direct the United States Marshal to serve the above-named defendants
17 pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

18 6. Plaintiff's request for an extension of 60-days to conduct discovery (ECF No. 49) is
19 GRANTED, plaintiff having shown due diligence in conducting discovery thus far. The
20 Scheduling and Discovery Order (ECF No. 46 at 5 ¶¶ 6 & 7) is hereby AMENDED to state that
21 (1) the parties may conduct discovery until April 13, 2015, and (2) all pretrial motions, except
22 discovery motions to compel discovery, shall be filed on or before July 8, 2015, and the order is
23 otherwise CONFIRMED.

24 7. Defendants' request for a twenty-one-day extension of time to respond to Plaintiff's
25 Interrogatories, Set One, and Requests for Admissions, Set One (ECF No. 51), is GRANTED.

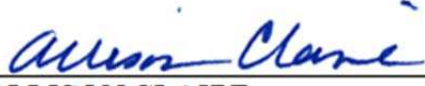
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1 Defendants must serve responses by January 19, 2015.

2 DATED: December 30, 2014

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4 ALLISON CLAIRE
5 UNITED STATES MAGISTRATE JUDGE
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

No. 2:13-cv-0576 KJM AC P

WILBUR ATCHERLEY,
Plaintiff,
v.
J. HANNA, et al.,
Defendants.

NOTICE OF SUBMISSION OF
DOCUMENTS

Plaintiff submits the following documents in compliance with the court's order filed

- _____:
- _____ completed summons form
 - _____ completed USM-285 forms
 - _____ copies of the _____
Complaint

DATED: _____
PLAINTIFF