1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 VANCE BLAINE, No. 2:13-cv-2163 KJM AC P 12 Plaintiff. 13 v. **ORDER** 14 CALIFORNIA HEALTH CARE FACILITY, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner at the California Health Care Facility (CHCF) with significant 18 visual impairments, has filed, with the assistance of another inmate, a request for extension of 19 time to respond to defendant's pending motions to dismiss, ECF No. 75, and an affidavit setting 20 forth plaintiff's unsuccessful efforts to obtain adequate assistance in this case in the prison library, 21 ECF No. 74. The undersigned previously found appointment of counsel appropriate for plaintiff; 22 however, because voluntary counsel could not be located to assist plaintiff, he must presently 23 proceed in this action pro se with the assistance of other inmates and staff. See ECF No. 51. 24 Plaintiff's request for extension of time was previously anticipated by the court and is 25 provided by order filed November 29, 2016, ECF No. 73, which sets an extended deadline of 26 January 20, 2017 for plaintiff's oppositions to the pending motions to dismiss. 27 Regarding plaintiff's second concern, the court previously requested that the Office of the 28 Attorney General (AG) "[c]ontact the Litigation Coordinator and/or Law Librarian at the

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California Health Care Facility to determine the ways in which plaintiff is currently supported in his pursuit of this action, and to specifically identify all potential additional means and methods for constructively supporting plaintiff through the conclusion of this action." ECF No. 57 at 4. In response, the AG informed the court, with a supporting declaration from CHCF ADA Coordinator T. Weinholdt, of the visual-assistance machines and disability support staff available to help plaintiff. See ECF No. 60. However, this response does not address plaintiff's current challenges in conducting legal research during the limited periods he is permitted to use the prison law library. Plaintiff's affidavit provides in pertinent part, ECF No. 74-1 at 2, ¶¶ 2, 3:

On 11-15-16, I visited the Law Library, where I requested the assistance of the staff and clerks to help me locate the cases that the defendant used in their motion to dismiss. The staff instructed clerk [inmate #1] to assist me. Unfortunately, he didn't even know how to operate the Nexus/Lexus computer. Then, the other clerk [inmate #2] came over, but he also had trouble. Within the 4 hours that I was there, he was only able to locate one case, and even then he refused to take notes.

On 11-22-15, I again visited the Law Library, where again I sought the assistance of staff. I spoke with the senior Librarian, and informed him that I needed help located certain cases in order to respond to the defendants Motion to dismiss. He then informed [me] that there were no clerks there that day to assist me.

Due to plaintiff's legitimate concerns, the court will again request that the AG specifically contact both the CHCF Litigation Coordinator and CHCF Law Librarian to address these matters.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's request for extended time, ECF No. 75, is denied as moot; pursuant to court order filed November 29, 2016, see ECF No. 73, plaintiff's oppositions to defendants' motions to dismiss are due on or before January 20, 2017.
 - 2. Plaintiff's "motion for leave of for ex parte communication," ECF No. 74, is granted.
 - 3. The Office of the California Attorney General¹ is requested to:
 - a. Contact the CHCF Litigation Coordinator and CHCF Law Librarian to identify

¹ The court realizes that this task necessarily falls on Deputy Attorney General Matthew Ross Wilson, who represents one of the three defendants. Mr. Wilson's continuing helpful assistance is duly noted.

the ways in which plaintiff is, or can in the near future be, personally supported in conducting legal research in this action, and in timely preparing, filing and serving his legal documents.

b. Within 30 days after the filing date of this order, file and serve a statement that sets forth the findings of this inquiry and includes the declarations of both the CHCF Litigation Coordinator and CHCF Law Librarian.

DATED: December 2, 2016

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE