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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAMAR SINGLETON, SR.,

Plaintiff,

v.

DR. FORTUNE, et al.,

Defendants.

No. 2:15-cv-0783 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis, with an action filed pursuant to 42 U.S.C. § 1983. Plaintiff’s amended complaint is now before the court. (ECF No. 25.)

The amended complaint states a potentially cognizable Eighth Amendment claim for relief against defendant Dr. Fortune pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

The amended complaint does not name CDCR Director Beard, Dr. Wong, or Chief Medical Executive Smiley as defendants. Accordingly, Beard, Wong, and Smiley are dismissed as defendants in this action.

Plaintiff also filed a motion requesting that the results of his “nerve conduction study” be included in the court’s screening order. (See ECF No. 27 at 1.) To the extent plaintiff requests

1 that the court obtain a copy of plaintiff's results before considering whether his complaint should
2 survive screening, plaintiff's request is denied as unnecessary. The court has already found,
3 without the benefit of plaintiff's test results, that the amended complaint states a potentially
4 cognizable claim against defendant Fortune. Furthermore, to the extent plaintiff seeks to obtain a
5 copy of the test results in question, see id. at 2, plaintiff will have the opportunity to do so during
6 the discovery process, or through the Olsen review process at the prison.

7 In accordance with the above, IT IS HEREBY ORDERED that:

- 8 1. Service is appropriate for defendant Dr. Fortune.
- 9 2. Beard, Wong, and Smiley are dismissed as defendants in this action.
- 10 3. The Clerk of the Court shall send plaintiff one USM-285 forms, one summons, an
11 instruction sheet and a copy of the amended complaint filed February 19, 2016.

12 4. Within thirty days from the date of this order, plaintiff shall complete the attached
13 Notice of Submission of Documents and submit the following documents to the court:

- 14 a. The completed Notice of Submission of Documents;
- 15 b. One completed summons;
- 16 c. One completed USM-285 form for each defendant listed in number 1 above;

17 and

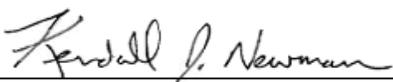
- 18 d. Two copies of the endorsed amended complaint filed February 19, 2016.

19 5. Plaintiff need not attempt service on defendants and need not request waiver of service.

20 Upon receipt of the above-described documents, the court will direct the United States Marshal to
21 serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment
22 of costs.

23 6. Plaintiff's request for test results (ECF No. 27) is denied without prejudice.

24 Dated: October 11, 2016

25 
26 _____
27 KENDALL J. NEWMAN
28 UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAMAR SINGLETON, SR.
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Defendants.

No. 2:15-cv-0783 MCE KJN P

NOTICE OF SUBMISSION OF
DOCUMENTS

Plaintiff hereby submits the following documents in compliance with the court's order
filed _____ :
_____ completed summons form
_____ completed USM-285 forms
_____ copies of the _____
Amended Complaint

DATED:

Plaintiff