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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TELESFORO QUINTANILLA,
Plaintiff,
v.
SISKIYOU CONTY JAIL, et al,
Defendants.

No. 2:15-cv-1115 CKD P

ORDER and
FINDINGS AND RECOMMENDATIONS

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 third amended complaint is before the court for screening pursuant to 28 U.S.C. § 1915A(a). The court has conducted the required screening and finds that the third amended complaint states a claim upon which plaintiff may proceed under the Eighth Amendment for denial of medical care against defendant Kolpakov. With respect to the other claims and defendants identified in plaintiff’s third amended complaint, plaintiff has failed to allege facts which amount to actionable claims arising under the Constitution or other federal law.¹

¹ Plaintiff does allege facts suggesting he may have a claim for negligence under California law concerning plaintiff’s slipping and falling on a wet floor. However, plaintiff has failed to plead compliance with the California Tort Claims Act, which he must do to proceed on claims arising under California law in this court. State v. Superior Court, 32 Cal. 4th, 1234, 1239 (2004). As to other claims and defendants, plaintiff has twice been advised of the deficiencies in his allegations. See ECF Nos. 9 and 12.

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

2 1. Service is appropriate for defendant Kolpakov.

3 2. The Clerk of the Court shall send plaintiff a USM-285 form, summons, an instruction
4 sheet and a copy of the third amended complaint.

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

7 a. The completed Notice of Submission of Documents;

8 b. One completed summons;

9 c. One completed USM-285 form; and

10 d. Two copies of the third amended complaint.

11 4. Plaintiff need not attempt service on defendant Kolpakov and need not request waiver
12 of service. Upon receipt of the above-described documents, the court will direct the United States
13 Marshal to serve defendant Kalpakov pursuant to Federal Rule of Civil Procedure 4 without
14 payment of costs.


15 5. The Clerk of the Court shall assign a district court judge to this case.

16 IT IS HEREBY RECOMMENDED that all defendants other than defendant Kolpakov be
17 dismissed.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, plaintiff may file written objections
21 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
22 and Recommendations." Plaintiff is advised that failure to file objections within the specified
23 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
24 (9th Cir. 1991).

25 Dated: March 15, 2016

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CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TELESFORO QUINTANILLA,

Plaintiff,

v.

SISKIYOU COUNTY JAIL, et al.,

Defendants.

No. 2:15-cv-1115 CKD 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