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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES BOWELL,  
Plaintiff,  
v.  
KATHLEEN ALLISON, et al.,  
Defendants.

No. 2:17-cv-0981 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel. Two motions are before the court.

Motion for Equitable Tolling

On February 4, 2019, plaintiff filed a motion styled, “Motion to Grant Equitable Tolling,” arguing that his second claim may require equitable tolling. (ECF No. 27.) Plaintiff is advised that his motion is improper and his argument is premature. The court will not apply equitable tolling based on a stand-alone motion by plaintiff. Rather, equitable tolling is more properly invoked in an opposition to a dispositive motion. Defendants have not filed a responsive pleading or a dispositive motion requiring plaintiff to invoke equitable tolling. Thus, plaintiff’s motion is denied without prejudice to including such request in an opposition to a dispositive motion.

Motion for Extension

On February 12, 2019, defendants filed a motion for an extension of time to respond to


1 plaintiff's amended complaint until the court addresses defendants' motion to revoke plaintiff's in  
2 forma pauperis status. Good cause supports defendants' request in light of the pendency of  
3 defendants' motion to revoke. Therefore, the motion for extension is granted. Defendants are  
4 relieved of their obligation to respond to plaintiff's amended complaint until further order of  
5 court.

6 Plaintiff is reminded of his obligation to respond to defendants' motion to revoke  
7 plaintiff's in forma pauperis status not more than 21 days after such motion was served on  
8 plaintiff. L.R. 230(1). "Failure of the responding party to file written opposition or to file a  
9 statement of no opposition may be deemed a waiver of any opposition to the granting of the  
10 motion . . . ." Id.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's motion (ECF No. 27) is denied without prejudice;
- 13 2. Defendants' motion for extension (ECF No. 29) is granted; and
- 14 3. Defendants are relieved of their obligation to respond to plaintiff's amended complaint  
15 until further order of court.

16 Dated: February 20, 2019

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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