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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH LEON MCDANIEL,  
Plaintiff,  
v.  
JOE LIZARRAGA, et al.,  
Defendants.

No. 2:19-cv-1136 JAM KJN P

ORDER

Plaintiff is a state prisoner, proceeding through counsel. On September 9, 2020, counsel filed a document styled, “Request for Extension of Time: Per Order in Document 45.” (ECF No. 46.) As set forth below, plaintiff’s request is partially granted.

First, counsel asked “for an extension of time to respond,” and appended a copy of plaintiff’s pro se request for extension of time.<sup>1</sup> (ECF No. 46 at 2.) Good cause appearing, the court will grant plaintiff an extension of time, *nunc pro tunc*, to file objections to the August 7, 2020 findings and recommendations. The court is not unsympathetic to the difficulties in representing incarcerated individuals, particularly during this pandemic. But counsel is cautioned that it is incumbent upon counsel to calendar court deadlines and if unable to meet them, seek an

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<sup>1</sup> Counsel’s filing is not a model of clarity. He does not specifically identify what court deadlines he seeks to extend. However, because counsel appended plaintiff’s pro se filing that specifically seeks an extension to file objections, the court will grant an extension to do so.


1 extension of time before the deadline expires. That said, following a COVID-19 outbreak in  
2 plaintiff's building (37 diagnosed positive, 1 died), counsel states that a "No Phone Calls Order"  
3 was issued on July 29, 2020. Good cause appearing, Deputy Attorney General Arthur Mark,  
4 counsel for defendants Toralba, Hawkins, Lizarraga, and Micael, shall inform the court whether  
5 the no phone calls order remains in effect and if so, what arrangements are being made for  
6 lawyers to contact their clients and vice versa.

7 Second, plaintiff's counsel also asks for leave to file one opposition for each motion to  
8 dismiss received from defendants "to avoid wasting the court's time with multiple filings, with  
9 hundreds of exhibits." (ECF No. 46 at 2.) But plaintiff has already filed oppositions to the  
10 pending motions to dismiss. This court issued findings and recommendations as to the first  
11 motion to dismiss. To date, all subsequent motions to dismiss are fully briefed. Plaintiff is not  
12 entitled to file any additional oppositions to such motions. E.D. L.R. 230(l). Therefore, counsel's  
13 request is denied. Going forward, if plaintiff's counsel wishes to confer with defense counsel and  
14 stipulate to an adjusted method of briefing for future motions, the court would entertain one.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's motion for an extension of time (ECF No. 46) is partially granted.
- 17 2. Plaintiff is granted sixty days from the date of this order in which to file objections to  
18 the August 7, 2020 findings and recommendations.
- 19 3. Within thirty days from the date of this order, Deputy Attorney General Arthur Mark  
20 shall inform the court whether the no phone calls order remains in effect at Mule Creek State  
21 Prison and, if so, what arrangements are being made for lawyers to contact their clients and vice  
22 versa.
- 23 4. Plaintiff's request for leave to file one opposition for each motion to dismiss received  
24 from defendants is denied.

25 Dated: September 14, 2020

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28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

/mcdal136.ext