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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KAREEM J. HOWELL,  
Plaintiff,  
v.  
J. MOKTAR, et al.,  
Defendants.

No. 2:22-cv-00842 DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with this civil rights action seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff alleges that defendants used excessive force against him and retaliated against him in violation of the First and Eighth Amendments. Presently before the court is plaintiff’s requests that the court direct the California Department of Corrections and Rehabilitation (“CDCR”) and the California Attorney General’s Office to help serve defendant Mokhtar.<sup>1</sup> (ECF Nos. 33, 34.) For the reasons stated below, the court will grant in part and deny in part the first request (ECF No. 33) and will strike the second request (ECF No. 34).

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<sup>1</sup> This defendant’s last name appears as “Moktar” on the docket, while the California Attorney General’s Office has spelled it “Mokhtar.” (See ECF No. 22.) Plaintiff uses various spellings of the name in his filings. (See ECF No. 33.) The court will use the spelling provided by the California Attorney General’s Office.

1           **I.       Background**

2           On June 11, 2023, the court issued an order directing service on defendants Mokhtar,  
3 Troja, Johnson, Childs, and Williamson. (ECF No. 15.) Because plaintiff identified these  
4 defendants as CDCR employees at the time of the alleged violations, their information was  
5 provided electronically to CDCR and the California Attorney General’s Office to effectuate  
6 service, pursuant to the court’s E-Service pilot program for civil rights cases. (Id. at 2.) The  
7 summons was returned unexecuted as to defendant Mokhtar because he no longer works for  
8 CDCR. (ECF No. 24.)

9           On August 7, 2023, the court directed plaintiff to submit service documents to the U.S.  
10 Marshal’s Service providing additional information to serve defendant Mokhtar. (ECF No. 25.)  
11 The court’s order stated: “Plaintiff shall promptly seek such information through discovery, the  
12 California Public Records Act, Calif. Gov’t. Code § 6250, et seq., or other means available to  
13 plaintiff. If access to the required information is denied or unreasonably delayed, plaintiff may  
14 seek judicial intervention.” (Id. at 1.)

15           The court received the required documents from plaintiff on September 26, 2023. (ECF  
16 No. 32.) The U.S. Marshal’s Service attempted service on the address provided by plaintiff but  
17 was informed that defendant Mokhtar did not live at the address. (ECF No. 35.) The summons  
18 was returned unexecuted on September 27, 2023. (Id.)

19           **II.       Plaintiff’s requests**

20           Plaintiff included with the required documents a filing entitled “Additional Information  
21 To Have This Defendant Served.” (ECF No. 33.) In it, plaintiff explains that he had previously  
22 sued defendant Mokhtar in a separate action before this court, Howell v. Johnson, 2:20-cv-0520  
23 (E.D. Cal.), and that defendant Mokhtar had been represented by the California Attorney  
24 General’s Office in that action. (Id. at 1–2.) Plaintiff asks “that this court order  
25 CDCR/defendants herein counsel to either continue representing defendant J. Mokhtar as well,  
26 and see to it that service is complete” or to “assist the plaintiff herein, and this court in locating  
27 defendant J. Mokhtar by providing defendant J. Mokhtar last known address given to CDCR.”  
28 (Id. at 2.)

1 On October 13, 2023, the court received a document from plaintiff entitled “Plaintiff  
2 Request to the Court, Ordering (CDCR) To Forward To the Court Defendant J. Mokhtar Last  
3 Known Address.” (ECF No. 34.) Plaintiff did not sign or date the filing.

### 4 **III. Analysis**

5 The court will grant in part and deny in part plaintiff’s first request. (ECF No. 33.)  
6 “[A]n incarcerated pro se plaintiff proceeding in forma pauperis is entitled to rely on the U.S.  
7 Marshal for service of the summons and complaint . . .”. Jensen v. Knowles, 621 F. Supp. 2d  
8 921, 930 (E.D. Cal. 2008) (quoting Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990))  
9 (alteration in original); see also Fed. R. Civ. P. 4(c)(3). The plaintiff must “act with diligence and  
10 provide the Marshal with sufficient information to serve the defendant.” Id. In this case, plaintiff  
11 has identified defendant Mokhtar’s last known attorney and CDCR as potential sources for this  
12 information, based on a previous lawsuit plaintiff brought against defendant Mokhtar that was  
13 dismissed in July 2022. (ECF No. 53, Howell v. Johnson, 2:22-cv-0520 (E.D. Cal.)) The  
14 California Attorney General’s Office represented defendant Mokhtar in that action and represents  
15 defendants Childs, Johnson, Williamson, and Troja in the instant action. (See ECF No. 33 at 3,  
16 5–9; ECF No. 26.)

17 Accordingly, the court will order counsel for defendants Childs, Johnson, Williamson, and  
18 Troja to obtain defendant Mokhtar’s last known address from CDCR and provide the address to  
19 the court.

20 The court will order plaintiff’s second request (ECF No. 34) to be stricken because  
21 plaintiff did not sign it. The court cannot consider unsigned filings. Fed. R. Civ. P. 11; E.D. Cal.  
22 R. 131.

### 23 **CONCLUSION**

24 IT IS HEREBY ORDERED that:

- 25 1. Plaintiff’s notice of additional information to serve defendant J. Mokhtar and motion  
26 for the court (ECF No. 33) is granted in part and denied in part.
- 27 2. Within thirty days of the date of this order, counsel of record for defendants Childs,  
28 Johnson, Williamson, and Troja shall:

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- a. Obtain from the California Department of Corrections and Rehabilitation the last known address it has on file for defendant J. Mokhtar, and
- b. Produce the address to the court by emailing it to:  
[dborders@caed.uscourts.gov](mailto:dborders@caed.uscourts.gov).

3. Plaintiff's request for a court order for CDCR to forward defendant's last known address (ECF No. 34) is stricken because it is unsigned.

Dated: November 14, 2023

DB: 15  
DB/DB Prisoner Inbox/Civil Rights/R/howe0842.8e(2)



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DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE