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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS EUGENE MOORE, )

Plaintiff, )

v. )

BROWN & WILLIAMSON TOBACCO, )  
CORPORATION, et al., )

Defendants. )

No. C 06-2150 SBA (PR)

**ORDER (1) GRANTING PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME  
TO FILE AN AMENDED COMPLAINT  
AND (2) ADDRESSING PENDING  
MOTIONS**

(Docket nos. 51, 52, 53)

10 On October 24, 2005, Plaintiff Thomas Eugene Moore, a state prisoner currently incarcerated  
11 at Pelican Bay State Prison, filed this civil action in the Monterey County Superior Court, Moore v.  
12 Brown & Williamson Tobacco, Corp., et al., Case No. M76478, alleging various claims, including  
13 civil rights violations, arising from Plaintiff's use of tobacco products while incarcerated at Salinas  
14 Valley State Prison (SVSP) from June 19, 2001 to July 1, 2005. Plaintiff named as Defendants the  
15 following corporations: Lane Limited (LL) and Brown & Williamson Tobacco Corporation (B&W),  
16 the alleged tobacco manufacturers; as well as Access SecurePak (Access), the alleged retailer of the  
17 tobacco products Plaintiff used. Plaintiff has also named as Defendants various prison officials, who  
18 purportedly participated in the supply of tobacco and the denial of Plaintiff's administrative claims,  
19 including: SVSP Warden Mike Evans; SVSP Canteen Manager E. Beza; SVSP Procurement  
20 Services Officer B. Schneider; SVSP Chief of Inmate Appeals N. Grannis; SVSP Appeals  
21 Coordinator S. Gomez; SVSP Correctional Lieutenant C. Blackstone; SVSP Physicians I. Grillo and  
22 R. Gibbs; and California Department of Corrections and Rehabilitation (CDCR) Director Jeanne  
23 Woodford. On March 23, 2006, Defendants removed this matter to federal court.

24 Before the Court are Plaintiff's "Motion for First Extension of Time to File Amended Civil  
25 Complaint" (docket no. 52); his "Motion for Court Order to Photocopy Plaintiff's Motions, Amended  
26 Complaint, and Process Service Documents" (docket nos. 51); and his motion entitled, "Amended  
27 Plaintiff's Motion for Clerk of the Court to Stamp the Seal of Clerk of the Court and the Issuing  
28 Court's Name on the Federal Summons" (docket no. 52).

1 In an Order dated November 10, 2008, the Court denied Plaintiff's application for in forma  
2 pauperis status and dismissed the complaint with leave to amend. The Court dismissed Plaintiff's  
3 claim against Defendants Access relating to his use of tobacco products as well as his claims against  
4 Defendants Grannis, Blackstone and Gomez relating to the grievance process. Plaintiff's claim  
5 against Defendants B&W and LL was found to be cognizable because it constituted a claim for  
6 product liability against tobacco manufactures. However, all remaining claims were dismissed with  
7 leave to amend. The Court also found that Plaintiff was responsible for effecting service on  
8 Defendants B&W and LL as well as on the remaining prison officials who were named as  
9 Defendants because his IFP application had been denied.

10 In an Order dated November 14, 2008, the Court denied Plaintiff's motion requesting the  
11 Clerk of the Court to issue summons and the U.S. Marshal to serve the summons and complaint upon  
12 Defendants. The Court directed Plaintiff to follow the procedures to properly serve the  
13 aforementioned Defendants outlined in the Court's November 10, 2008 Order.

14 In an Order dated December 4, 2008, the Court granted Plaintiff's request for an extension up  
15 to and including January 12, 2009 in order to serve the summons and complaint upon the remaining  
16 Defendants. The Court also granted Plaintiff's motion requesting the Clerk to send a copy of the  
17 federal summons to Plaintiff.

18 Plaintiff has subsequently filed the three above-referenced motions with the Court. Plaintiff  
19 claims that he needs an extension to file his amended complaint (including his amended deliberate  
20 indifference, supervisory liability and equal protection claims). In his motion, he alleges he is

21 experiencing difficulty in having the Pelican Bay State Prison (PBSP) Facility B  
22 Prison Law Librarian Mrs. J. Evert . . . photocopy the original amended complaint so  
23 that [he] can be able to provide a copy to the Deputy Attorney General Paul  
Hammerness and a copy for [himself] in order that [he] can mail and file this  
original copy to the Northern District of California.

24 (Motion for EOT to File Am. Compl. at 1.) As mentioned above, he has also filed a motion  
25 requesting the Court to order the PBSP law librarian to photocopy certain documents for him. Based  
26 on Plaintiff's ability to file numerous documents in his other pending cases, the Court finds that  
27 Plaintiff has not shown a need for the photocopying services. See Case Nos. 06-02105 SBA (PR)  
28 and C 06-02357 SBA (PR). If Plaintiff is unable to obtain photocopying services in order to meet the

1 required deadlines in this case, he may handwrite duplicates of any document he files. Therefore, the  
2 Court DENIES his "Motion for Court order to Photocopy Plaintiff's Motions, Amended Complaint,  
3 and Process Service Documents" (docket nos. 51). In any event, the Court finds that a brief  
4 extension is necessary for Plaintiff to handwrite any duplicates of the documents he intends to file if  
5 he is still unable to obtain photocopying services. Accordingly, the Court GRANTS his motion for  
6 an extension of time to file amended deliberate indifference, supervisory liability, and equal  
7 protection claims (docket no. 52) up to and including **January 5, 2009**.

8 Finally, the "Amended Plaintiff's Motion for Clerk of the Court to Stamp the Seal of Clerk of  
9 the Court and the Issuing Court's Name on the Federal Summons" (docket no. 52) is DENIED  
10 because the attached summons to this motion does not contain Defendants' names and addresses.  
11 Thus, the attached summons submitted by Plaintiff is not proper, and he must provide the Clerk with  
12 the names and addresses of the Defendants he wishes to serve. Plaintiff must abide by the deadline  
13 previously set in the Court's December 4, 2008 Order, and he must serve the summons and complaint  
14 upon the Defendants he wishes to serve no later than **January 12, 2009**.

15 **CONCLUSION**

16 For the foregoing reasons, the Court orders as follows:

- 17 1. Plaintiff's "Motion for Court order to Photocopy Plaintiff's Motions, Amended  
18 Complaint, and Process Service Documents" (docket nos. 51) is DENIED.
- 19 2. Plaintiff's "Motion for First Extension of Time to File Amended Civil Complaint"  
20 (docket no. 52) is GRANTED up to and including **January 5, 2009**. In its November 10, 2008  
21 Order, the Court directed Plaintiff to "resubmit only his deliberate indifference, supervisory liability  
22 and equal protection claims." (Nov. 10, 2008 Order at 13.) He was originally directed to label the  
23 document with the amended claims his "Amended Complaint." (Id. at 14.) Because the Court  
24 directed Plaintiff to amend only those aforementioned claims, Plaintiff is instead directed to label the  
25 document "Amendment to the Complaint," and write in the case number for this action, Case No.  
26 C 06-02150 SBA (PR).

27 Plaintiff shall file his amendment to the complaint no later than **January 5, 2009**. The failure  
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1 to do so will result in the dismissal of Plaintiff's deliberate indifference, supervisory liability and  
2 equal protection claims for failure to state a cognizable claim for relief and for failure to exhaust  
3 available administrative remedies.

4 3. Plaintiff's "Amended Plaintiff's Motion for Clerk of the Court to Stamp the Seal of  
5 Clerk of the Court and the Issuing Court's Name on the Federal Summons" (docket no. 52) is  
6 DENIED. Plaintiff is directed to provide the Clerk with the names and addresses of the Defendants  
7 he wishes to serve. Thereafter, he must serve the summons and complaint upon the Defendants he  
8 wishes to serve no later than **January 12, 2009**.

9 4. Because this case has been pending for almost three years, **no further extensions of**  
10 **time will be granted in this case absent exigent circumstances.**

11 5. This Order terminates Docket nos. 51, 52 and 53.

12 IT IS SO ORDERED.

13 DATED: 12/12/08

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 MOORE et al,

5 Plaintiff,

6 v.

7 BROWN & WILLIAMSON TOBACCO,  
8 CORPORATION et al,

9 Defendant.

Case Number: CV06-02150 SBA

**CERTIFICATE OF SERVICE**

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
11 Court, Northern District of California.

12 That on December 16, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
15 in the Clerk's office.

16 Thomas Eugene Moore D-62389  
17 Pelican Bay State Prison  
18 P.O. Box 7500  
19 Crescent City, CA 95532

20 Dated: December 16, 2008

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk