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**United States District Court**  
For the Northern District of California

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

JOSE LUIS LARA,	)	No. C 02-05429 JW (PR)
Plaintiff,	)	
vs.	)	ORDER DIRECTING CLERK TO
	)	REISSUE SUMMONS TO
DR. POSNER, et al.,	)	DEFENDANT HAFFNER
Defendants.	)	
_____	)	

Plaintiff, a California inmate proceeding pro se, filed this civil rights complaint under 42 U.S.C. § 1983, alleging deliberate indifference to his serious medical needs by Salinas Valley State Prison (“SVSP”) employees. In accordance with the Court order filed October 19, 2009, (Docket No. 62), plaintiff filed location information for Defendant Dr. Haffner current address. (Docket No. 65.) Based on this information, the Court will order the clerk to reissue summons to defendant Haffner at the two addresses provided by plaintiff.

**CONCLUSION**

It is hereby ordered as follows:

1. The clerk shall re-issue a summons and the United States Marshal

1 shall serve, without prepayment of fees, a copy of the amended complaint in this  
2 matter (Docket No. 12), all attachments thereto, a copy of the Court's order filed  
3 November 9, 2006, (Docket No. 17), and a copy of this order to defendant Haffner at  
4 the addresses provided by plaintiff. (Docket No. 65.)

5 2. In order to expedite the resolution of this case;

6 a. Defendant shall, within **sixty (60) days** from the date he is  
7 served with the amended complaint, file a motion for summary judgment or other  
8 dispositive motion, or shall notify the Court that he is of the opinion that this case  
9 cannot be resolved by such a motion. The motion shall be supported by adequate  
10 factual documentation and shall conform in all respects to Federal Rule of Civil  
11 Procedure 56.

12 Defendant is advised that summary judgment cannot be granted, nor qualified  
13 immunity found, if material facts are in dispute. If defendant is of the opinion that  
14 this case cannot be resolved by summary judgment, he shall so inform the Court  
15 prior to the date the summary judgment motion is due.

16 All papers filed with the Court shall be served promptly on plaintiff.

17 b. Plaintiff's opposition to the dispositive motion shall be filed with  
18 the Court and served on defendant's counsel not later than **thirty (30) days** from the  
19 date defendant's motion is filed. The Ninth Circuit has held that the following  
20 notice should be given to pro se plaintiffs:

21 The defendants have made a motion for summary judgment by which  
22 they seek to have your case dismissed. A motion for summary  
23 judgment under Rule 56 of the Federal Rules of Civil Procedure will,  
if granted, end your case.

24 Rule 56 tells you what you must do in order to oppose a motion for  
summary judgment. Generally, summary judgment must be granted  
25 when there is no genuine issue of material fact--that is, if there is no  
real dispute about any fact that would affect the result of your case, the  
26 party who asked for summary judgment is entitled to judgment as a  
matter of law, which will end your case. When a party you are suing  
27 makes a motion for summary judgment that is properly supported by  
declarations (or other sworn testimony), you cannot simply rely on  
28 what your complaint says. Instead, you must set out specific facts in  
declarations, depositions, answers to interrogatories, or authenticated

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documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted in favor of defendants, your case will be dismissed and there will be no trial.

See Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998) (en banc).

Plaintiff is advised to read Rule 56 of the Federal Rules of Civil Procedure and Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986) (holding party opposing summary judgment must come forward with evidence showing triable issues of material fact on every essential element of his claim). Plaintiff is cautioned that failure to file an opposition to defendants' motion for summary judgment may be deemed to be a consent by plaintiff to the granting of the motion, and granting of judgment against plaintiff without a trial. See Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (per curiam); Brydges v. Lewis, 18 F.3d 651, 653 (9th Cir. 1994).

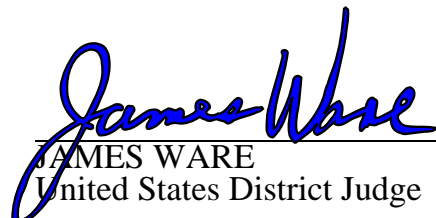
c. Defendant may file a reply brief no later than **fifteen (15) days** after plaintiff's opposition is filed.

d. The motion shall be deemed submitted as of the date the reply brief is due. No hearing will be held on the motion unless the Court so orders at a later date.

3. Discovery may be taken in accordance with the Federal Rules of Civil Procedure. No further Court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16-1 is required before the parties may conduct discovery.

4. All communications by plaintiff with the Court must be served on defendant's counsel once counsel has been designated, by mailing a true copy of the document to defendant's counsel.

DATED: December 11, 2009

  
JAMES WARE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JOSE LUIS LARA,  
Plaintiff,

Case Number: CV02-05429 JW

**CERTIFICATE OF SERVICE**

v.

DR. POSNER, et al.,  
Defendants.

\_\_\_\_\_/

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

That on 12/18/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jose Luis Lara K-26793  
Calipatria State Prison  
P. O. Box 5006  
Calipatria, Ca 92233

Dated: 12/18/2009

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk