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10 UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 DAVID LITMON, JR.,)	No. C03-2054 RMW
14 Plaintiff,)	
15 v.)	DEFENDANTS' MOTION FOR
16 SANTA CLARA COUNTY et. al.,)	EXTENSION OF TIME TO FILE REPLY
17 Defendants.)	BRIEF IN SUPPORT OF MOTION FOR
)	SUMMARY JUDGMENT
)	AND ORDER

19 1. I am a Deputy County Counsel in the Office of the Santa Clara County Counsel. I
 20 am a member in good standing of the State bar, duly admitted to practice law before this Court
 21 and in all State and Federal courts in the State of California. I am counsel of record for the
 22 Defendants who have been served and appeared in this action.

23 2. Plaintiff David Litmon filed this *pro se* civil rights action while he was civilly
 24 confined at the Santa Clara County Jail while awaiting trial proceedings under California's
 25 Sexually Violent Predators Act, California Welfare and Institutions Code section 6600 et seq.
 26 ("SVPA").

27 3. On March 8, 2007, the Court issued an Order of Partial Dismissal and Service
 28 regarding Plaintiff's Second Amended Complaint. The Court concluded that Plaintiff's

1 allegations, liberally construed, stated cognizable claims against Defendants pursuant to 42
2 U.S.C. § 1983 for alleged violations of his constitutional rights with respect to his conditions of
3 confinement and with respect to provision of medical care and mental health treatment as well
4 as alleged violations of the ADA.

5 4. The Court's order recognized as cognizable a number of condition of confinement
6 allegations including Litmon's allegations that he was treated like or worse than a criminal
7 detainee; he was subjected to confinement to his cell for twenty-three or twenty-four hours per
8 day; he was denied his right to privacy by being required to shower in the presence of criminal
9 detainees he was denied adequate exercise he was subjected to property searches without
10 adequate cause; he was subjected to strip searches and body cavity searches. It also recognized
11 as cognizable Litmon's claims that he was denied the following medical care: personal clothing
12 for anemia; modified diet and exercise for high cholesterol; surgery for bone spurs; soft sole
13 shoes for flat feet and bone spurs; use of a double mattress and egg crate mattress for medical
14 problems related to his right shoulder and a spinal cord deformity; physical therapy related to
15 his shoulder surgery; ongoing treatment for an enlarged prostate; and treatment for unknown
16 internal medical injuries. The Court's order also recognized as cognizable Plaintiff's claim that
17 he was entitled to mental health treatment for his antisocial personality disorder, paraphelia and
18 substance abuse, for which he had never received treatment at Atascadero. In addition, the
19 Court recognized as cognizable Litmon's ADA claims insofar as they allege that he is disabled
20 by the mental health conditions for which he was required to receive treatment at Atascadero
21 because of his SVP designations and that the DOC denied him mental health treatment precisely
22 because he is an SVP.

23 5. On February 25, 2008, this Court issued an order reinstating Plaintiff's injunctive
24 relief claims and ordered Defendants to include a response to those claims with their summary
25 judgment motion, further ordering that a supplemental answer may be filed to address the
26 reinstated claims.

27 6. On June 20, 2008, Defendants filed and served their motion for summary judgment.

28 7. On July 31, 2008, I filed a notice of unavailability, advising Plaintiff and the Court

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 PROOF OF SERVICE BY MAIL

4
5 *Litmon v. County, et al.*

No. C00-20345 RMW

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7 I, Anna Marie B. Espiritu, say:

8 I am now and at all times herein mentioned have been over the age of eighteen years,
9 employed in Santa Clara County, California, and not a party to the within action or cause; that
10 my business address is 70 West Hedding, East Wing, 9th Floor, San Jose, California 95110. I
11 am readily familiar with the County's business practice for collection and processing of
12 correspondence for mailing with the United States Postal Service. I served a copy of the
**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF IN
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**, by placing said copy in an
envelope addressed to:

13 David Litmon, Jr.
14 CO-000555-3 - Unit 12
15 P.O. Box 5003
Coalinga, CA 93210

16 which envelope was then sealed, with postage fully prepaid thereon, on **August 15, 2008**,
17 and placed for collection and mailing at my place of business following ordinary business
18 practices. Said correspondence will be deposited with the United States Postal Service at San
Jose, California, on the above-referenced date in the ordinary course of business; there is
delivery Service by United States mail at the place so addressed.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct, and that this declaration was executed on **August 15, 2008**,
at San Jose, California.

21
22 
23 _____
Anna Marie B. Espiritu

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