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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SERGIO ALEJANDRO RUIZ,

vs.

C. ROJAS,

Plaintiff,

Defendant.

CASE NO. 07cv1861-LAB (POR)
**ORDER GRANTING EXTENSION
OF TIME TO FILE AMENDED
COMPLAINT**

On December 5, 2007, the Court issued an order granting Plaintiff leave to proceed *in forma pauperis*, conducting the screening required under 28 U.S.C. §§ 1915(e) and 1915A, and dismissing his complaint. Plaintiff was granted 45 days from the date the order was filed in which to file an Amended Complaint.

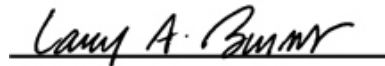
On January 24, 2008, Plaintiff moved *ex parte* for an extension of time to file his Amended Complaint, because he had not received the Court's order in a timely fashion. It appears the order was mailed to Plaintiff approximately 18 days after it was issued. Finding good cause, the Court **GRANTS** Plaintiff's request. He may file an Amended Complaint no later than **28 calendar days** from the date this order is entered.

Plaintiff is advised his Amended Complaint must cure the defects identified in the Court's order of December 5, 2007. The Amended Complaint must be complete in itself without reference to the superseded pleading. See S.D. Cal. Civ. L. R. 15.1. Defendants not named and all claims not re-alleged in the Amended Complaint will be deemed to have

1 been waived. See *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Further, if Plaintiff's
2 Amended Complaint fails to state a claim upon which relief may be granted, it may be
3 dismissed without further leave to amend and may hereafter be counted as a "strike" under
4 28 U.S.C. § 1915(g). See *McHenry v. Renne*, 84 F.3d 1172, 1177-79 (9th Cir. 1996).

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6 **IT IS SO ORDERED.**

7 DATED: January 31, 2008

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9 **HONORABLE LARRY ALAN BURNS**
10 United States District Judge
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