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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10 THOMAS MATTHEWS,  
11 Plaintiff,  
12 v.  
13 SAN DIEGO COUNTY BOARD OF  
14 SUPERVISORS, et al., CODE  
15 ENFORCEMENT AGENTS TERESA  
16 WILLIS & MICHAEL MURPHY; SAN  
17 DIEGO COUNTY TREASURE'S  
18 OFFICE, (all defendants sued in their  
19 individual and official capacity),  
20 Defendants.

Case No.: 3:18-CV-711-GPC-NLS

**ORDER RE PLAINTIFF'S MOTION**

**[ECF No. 21.]**

21 Before this Court is pro se Plaintiff Thomas Matthews' motion "to set aside default  
22 judgment due to defendants failure to properly notice plaintiff of their filings/motions."  
23 (ECF No. 21.) For reasons articulated below, the Court will construe the motion as a  
24 motion for extension of time to file a response and grant the motion in part and deny it in  
25 part.

26 On August 31, 2018, the Court issued a scheduling order setting the hearing on  
27 Defendant County of San Diego's Motion to Dismiss (ECF No. 17) for November 9,  
28 2018, and ordered that any response from Plaintiff Thomas Matthews was due no later  
than September 21, 2018. (ECF No. 18.) Plaintiff did not file any response motions

1 before September 21, 2018, and on October 5, 2018, Defendant filed a response urging  
2 the Court to dismiss Plaintiff's complaint for failure to prosecute. (ECF No. 19.)  
3 Plaintiff's present motion is submitted in opposition to Defendant's request for dismissal.

4 First, Plaintiff asks the Court to set aside "defendant's motion for default."  
5 Because Defendant has not moved for default, and because no default has been entered,  
6 the request is denied.

7 Second, Plaintiff states that his failure to file a timely response was attributable "to  
8 the defendants failure to properly notice him of the motions." (ECF No. 21, at 2.)  
9 Specifically, he points to the proof of service page submitted by Defendant, which were  
10 addressed to the Plaintiff at a zip code of 92120. Although Plaintiff contends that is not  
11 his correct address, his own complaint is the source of that erroneous zip code. (ECF No.  
12 1, at 1). Plaintiff has indicated, by way of a handwritten note on his motion, that his  
13 correct zip code is 92019. (ECF No. 21, at 1.) The Clerk has updated Plaintiff's address  
14 for the docket. With the correct zip code on file, there is no need for the Court to order  
15 Defendant to alter its method of service.

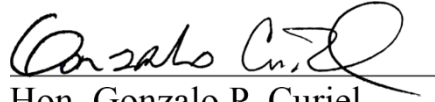
16 Finally, Plaintiff has asked for a 30 day extension in which to respond to  
17 Defendant's motion to dismiss. The Court will grant that request in recognition of  
18 Plaintiff's pro se status and excuse the tardy filing. Mindful, however, that an extension  
19 of 30 days would require a shifting of reply brief and motion hearing dates as well, the  
20 Court resets the calendar as follows. Plaintiff's new response brief deadline is  
21 **November 19, 2018**. Any reply from Defendant is due **November 28, 2018**. The new  
22 hearing date shall be **December 14, 2018, at 1:30 p.m.**, in room 2D.

### 23 CONCLUSION

24 The Court **denies** all aspects of Plaintiff's motion except that which seeks a 30 day  
25 extension of time to file. Such motion is **granted**: Plaintiff must file a response brief, if  
26 any, no later than November 19, 2018. Any reply must be filed no later than November  
27 28, 2018. The new hearing date is December 14, 2018, at 1:30 p.m.

**IT IS SO ORDERED.**

Dated: October 19, 2018

  
Hon. Gonzalo P. Curiel  
United States District Judge