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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSEPH DAVALL,
CDCR #AW-8294,

Plaintiff,

vs.

A. CORDERO; D. WHITE;
WHITMAN,

Defendants.

Case No.: 3:20-cv-1968 JLS (KSC)

**ORDER GRANTING EX PARTE
APPLICATION TO MODIFY
BRIEFING SCHEDULE**

(ECF No. 13)

Presently before the Court is Defendant Whitman’s *Ex Parte* Application to Modify the Briefing Schedule. (“Appl.,” ECF No. 13.) On October 5, 2020, Plaintiff filed a Complaint alleging civil rights violations pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Defendant Whitman was served on November 24, 2020. (Appl. at 1.) Plaintiff filed a Motion for a Temporary Restraining Order (“TRO”) *nunc pro tunc* to November 25, 2020. (ECF No. 9.) On December 8, 2020, the Court ordered Defendants to respond to Plaintiff’s Motion for TRO within seven days and served the Order via U.S. Mail on the California Department of Corrections and Rehabilitation, Department of Legal Affairs. (ECF No. 10 at 2.) The Office of Legal Affairs did not respond to the Court’s Order or forward it to Defendant Whitman’s counsel at the Attorney General’s Office. (Appl. at 2.) Defendant

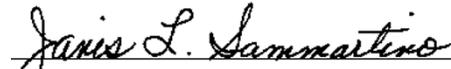
1 Whitman returned a waiver of service to the U.S. Marshal on December 21, 2020. (*Id.*; see
2 ECF No. 12.)

3 Defendant claims that “neither Defendant nor defense counsel was made aware [of
4 the Motion and Order] until January 4, 2021.” (Appl. at 2.) As Defendant had not yet
5 entered an appearance, “defense counsel was not notified of the Motion and Order by the
6 electronic filing system or by other means.” (*Id.* at 3.) Defendant Whitman argues that
7 “[g]ood cause exists to modify the scheduling order because Defense counsel for
8 Defendant Whitman did not learn of the Motion for a Temporary Restraining Order, or
9 order to respond until January 4, 2021.” (*Id.* at 2.)

10 Good cause appearing, the Court **GRANTS** Defendant Whitman’s Application
11 (ECF No. 13). Defendant Whitman **SHALL FILE** a response to Plaintiff’s Motion for
12 Temporary Restraining Order on or before January 14, 2021.

13 **IT IS SO ORDERED.**

14 Dated: January 6, 2021


15 Hon. Janis L. Sammartino
16 United States District Judge
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