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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 OSCAR ESTEBAN VALLE,
12 CDCR #BT7058

13 Plaintiff,

14 vs.

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16 DR. RICHARD OBLER, SHANNAHAN,
17 COLLEEN STANICH, POLICE OFFICER
18 JOHN DOE,

19 Defendants.
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Case No.: 3:23-cv-2128-WQH-DEB

**SCREENING ORDER RE SECOND
AMENDED COMPLAINT**

**(1) DISMISSING DEFENDANTS
STANICH AND SHANNAHAN AS
PARTIES;**

**(2) DISMISSING SPECIFIED
CAUSES OF ACTION FOR
FAILING TO STATE A CLAIM
PURSUANT TO 28 U.S.C.
§§ 1915(e)(2)(B) AND 1915A(b);**

**(3) DIRECTING MARSHAL
SERVICE AS TO DEFENDANT
OBLER PURSUANT TO
28 U.S.C. § 1915(d) AND
Fed. R. Civ. P. 4(c)(3)**

25 **I. INTRODUCTION**

26 Oscar Esteban Valle (“Plaintiff” or “Valle”), a state inmate currently housed at the
27 California Medical Facility is proceeding pro se with a civil rights action pursuant to 42
28 U.S.C. § 1983. On April 12, 2024, the Court granted Plaintiff’s Motion to Proceed *In*

1 *Forma Pauperis* (“IFP”) and dismissed the original complaint without prejudice for failure
2 to state a claim. ECF No. 10. Valle filed a First Amended Complaint (“FAC”) on May 28,
3 2024. ECF No. 13. But before the Court could screen the FAC, Valle filed a Second
4 Amended Complaint (“SAC”), which is now the operative pleading. *See Ramirez v. Cnty.*
5 *of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (“It is well-established in our
6 circuit that an amended complaint supersedes the original, the latter being treated thereafter
7 as non-existent.”) (internal quotation marks omitted).

8 For the reasons discussed below, the Court dismisses Valle’s claims against
9 Defendants Stanich and Shannahan and dismisses his Eighth and Fourteenth Amendment
10 claims as to all Defendants. The Court finds Plaintiff’s Fourth Amendment claims against
11 Defendants Doe and Obler sufficient to survive screening and directs Marshal Service of
12 the SAC as to Valle’s Fourth Amendment claim against Defendant Obler.

13 **II. SCREENING PURSUANT TO 28 U.S.C. § 1915(e) AND § 1915A(b)**

14 **A. Legal Standards**

15 As discussed in this Court’s previous screening order, under 28 U.S.C.
16 § 1915(e)(2)(B) and § 1915A(b), the Court must screen a prisoner’s IFP amended
17 complaint and *sua sponte* dismiss it to the extent that it is frivolous, malicious, fails to state
18 a claim, or seeks damages from defendants who are immune. *See Lopez v. Smith*, 203 F.3d
19 1122, 1126–27 (9th Cir. 2000) (*en banc*); *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th
20 Cir. 2010). “The standard for determining whether Plaintiff has failed to state a claim upon
21 which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of
22 Civil Procedure 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*, 668 F.3d
23 1108, 1112 (9th Cir. 2012). Rule 12(b)(6) requires that a complaint to “contain sufficient
24 factual matter . . . to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*,
25 556 U.S. 662, 678 (2009) (internal quotation marks omitted). While detailed factual
26 allegations are not required, “[t]hreadbare recitals of the elements of a cause of action,
27 supported by mere conclusory statements, do not suffice” to state a claim. *Id.* The “mere
28 possibility of misconduct” or “unadorned, the defendant-unlawfully-harmed me

1 accusation[s]” fall short of meeting this plausibility standard. *Id.*

2 Title 42 U.S.C. § 1983 “creates a private right of action against individuals who,
3 acting under color of state law, violate federal constitutional or statutory rights.” *Devereaux*
4 *v. Abbey*, 263 F.3d 1070, 1074 (9th Cir. 2001). To state a claim under § 1983, a plaintiff
5 must plausibly allege “both (1) deprivation of a right secured by the Constitution and laws
6 of the United States, and (2) that the deprivation was committed by a person acting under
7 color of state law.” *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012).

8 **B. Plaintiff’s Allegations**

9 In his SAC, Plaintiff alleges that on November 8, 2021, he was taken into custody
10 by National City Police officers. SAC, ECF No. 14 at 3. After his arrest, officers transported
11 Valle to Paradise Valley Hospital in National City, California because Valle had
12 complained of chest pain and difficulty breathing. *Id.* Once at the hospital, x-rays revealed
13 Valle had a “foreign object” in his rectum. *Id.* While conducting an initial exam of Valle,
14 Dr. Richard Obler made “sexual comments” about how he would “fish [the foreign object]
15 out.” *Id.* at 3, 5. Detective Shannahan heard Obler’s comments and laughed. *Id.* at 3. Valle
16 refused medical treatment for the foreign object but requested fluids and Tylenol for pain.
17 *Id.* When Valle asked Shannahan why he did not intervene when Obler made inappropriate
18 comments, Shannahan ignored him. *Id.* at 5.

19 Later that same day, police officers transported Valle to the San Diego County Jail
20 where staff took another x-ray which, again, revealed the presence of the foreign object in
21 Plaintiff’s rectum. *Id.* at 3. Jail staff refused to accept Valle in his condition, so Shannahan
22 transported Valle back to Paradise Valley Hospital. *Id.* Shortly after Valle arrived at the
23 hospital the second time, Shannahan was relieved by Officer John Doe. *Id.* While Valle
24 was in restraints, Obler examined him again and made more inappropriate jokes about
25 Valle’s condition. Valle asked Officer Doe to “keep Doctor Obler away from him” but Doe
26 ignored Valle’s request. *Id.* Obler then asked Officer Doe if he “could conduct a search on
27 [Valle] [for] the contraband.” *Id.* Doe responded that Obler could “search anything to get
28 [Valle] to jail faster.” *Id.*

1 Obler then put on a “glove while cornering Plaintiff . . . saying he [was] going [to]
2 get it out.” Valle yelled for Officer Doe to intervene, but he did not. *Id.* Obler then put his
3 hand down Valle’s pants, grabbed Valle’s “penis foreskin ejaculated him 3 time [sic] while
4 licking his lips and [asking] if he like[d] it, reach[ed] around for [Valle’s] testicle [and]
5 forc[ed] his finger inside Plaintiff’s rectum.” *Id.* Shortly thereafter, Obler stated that it was
6 alright to give Valle water and food.¹ When Valle asked Officer Doe “why he let [] Obler
7 do what he did,” Doe responded, “he is [the] doctor and [he] knows.” *Id.* Nurse Torres then
8 brought Valle water and food. Valle told Torres he had been sexually assaulted by Dr.
9 Obler. *Id.*

10 The next day, while still at the hospital, Valle reported to National City Police
11 Detective Stanich that he had been “sexually assaulted” by Obler. *Id.* at 4. Stanich
12 responded that she did not care. *Id.* Stanich came back to Valle’s room later and told him
13 that she would “investigate the sexual assault” “if he help[s] them get the object out [of
14 his] rectum.” *Id.* Plaintiff agreed to her “proposition.” While being observed by a nurse,
15 Plaintiff attempted to remove the object himself “for about 15 minutes,” but was
16 unsuccessful. Stanich ultimately refused to investigate Valle’s claim against Obler. *Id.*
17 Valle later told his new physician, Dr. Rodolfo, and a nurse, Cesar Cardenas, that Obler
18 had sexually assaulted him. *Id.*

19 **C. Discussion**

20 Valle raises claims under the Fourth, Eighth and Fourteenth Amendments and seeks
21 compensatory damages and punitive damages. *Id.* at 3–5, 7. While Plaintiff fails to clearly
22 identify the legal basis for his specific claims against each individual Defendant, the Court
23 liberally construes the SAC as raising the following claims: (1) Plaintiff’s Eighth
24 Amendment rights were violated when Obler conducted a digital cavity search and Stanich,
25 Shannahan and Doe failed to interceded; (2) his Fourteenth Amendment rights were
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28 ¹ Obler did not remove the foreign object.

1 violated when Stanich failed to investigate his claim that Obler had sexually assaulted him;
2 (3) his constitutional rights were violated when Shannahan failed to intervene after Obler
3 made inappropriate comments to Valle; and (4) his Fourth and Fourteenth Amendment
4 rights were violated when Obler conducted a digital cavity search at Doe's behest. *See*
5 *generally* ECF No. 14.

6 **1. Eighth Amendment**

7 First, to the extent Valle alleges Defendants violated his rights under the Eighth
8 Amendment, he fails to state a claim. The Eighth Amendment's protections are specifically
9 concerned with unnecessary and wanton infliction of pain in penal institutions. *See Whitley*
10 *v. Albers*, 475 U.S. 312, 327, (1986). Because Valle was not imprisoned at any time during
11 the relevant period at issue, the protections of the Eighth Amendment do not apply. The
12 Court therefore DISMISSES Valle's Eighth Amendment claims with prejudice for failure
13 to state a claim. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); *Iqbal*, 556 U.S. at 678;
14 *Hartmann v. California Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1130 (9th Cir. 2013) ("A
15 district court may deny leave to amend when amendment would be futile.")

16 **2. Stanich**

17 Valle alleges Stanich violated his rights under the Fourteenth Amendment when she
18 failed to adequately investigate his report that Obler had sexually assaulted him. ECF No.
19 14 at 4. But there is no constitutional right to receive a satisfactory response to a citizen's
20 complaint. *See Gomez v. Whitney*, 757 F.2d 1005, 1006 (9th Cir. 1985) (per curiam) ("[W]e
21 can find no instance where the courts have recognized inadequate investigation as
22 sufficient to state a civil rights claim unless there was another recognized constitutional
23 right involved."); *see also Best v. Sonoma Cnty. Sheriffs Dep't*, 2020 WL 5517192, at *6
24 ("Failure to conduct an internal affairs investigation or properly investigate complaints
25 against law enforcement do[es] not amount to a violation of the due process clause of the
26 Fourteenth Amendment."); *Page v. Stanley*, 2013 WL 2456798, at *8–9 (C.D. Cal. June 5,
27 2013) (dismissing Section 1983 claim alleging that officers failed to conduct thorough
28 investigation of plaintiff's complaints because plaintiff "had no constitutional right to any

1 investigation of his citizen’s complaint, much less a ‘thorough’ investigation or a particular
2 outcome”). Valle has therefore failed to state a Fourteenth Amendment claim against
3 Stanich. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); *Iqbal*, 556 U.S. at 678. And
4 because amendment would be futile, the claim is DISMISSED with prejudice. *See*
5 *Hartmann*, 707 F.3d at 1130.

6 **3. Shannahan**

7 Plaintiff alleges Shannahan failed to intervene when Obler made inappropriate
8 sexual comments and jokes during Valle’s first visit to the hospital.² “[P]olice officers have
9 a duty to intercede when their fellow officers violate the constitutional rights of a suspect.”
10 *See Cunningham v. Gates*, 229 F.3d 1271, 1289 (9th Cir. 2000). But here, Valle falls to
11 point to a constitutional violation. Mere verbal “harassment” is not a constitutional
12 violation. *Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987); *see also Garrison*
13 *v. Fisher*, No. 10-cv-1441-JSW, 2010 WL 4735995, at *2 (N.D. Cal. Nov. 15, 2010)
14 (stating verbal harassment or abuse is not sufficient to state a constitutional violation under
15 section 1983). As such, Shannahan had no duty to intervene. Nor can Valle state a claim
16 based on Shannahan’s purported failure to prevent Obler from conducting a cavity search
17 because Valle concedes that Shannahan was not present at that time. *See* ECF No. 14 at 3.
18 Therefore, the Court finds Plaintiff has failed to state a claim against Shannahan, *see* 28
19 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); *Iqbal*, 556 U.S. at 678, and that further
20 amendment would be futile. *See Hartmann*, 707 F.3d at 1130. Accordingly, the Court
21 DISMISSES the claim with prejudice.

22 **4. Obler and Doe**

23 Valle alleges his Fourth and Fourteenth Amendment rights were violated when
24 Obler conducted a nonconsensual cavity search with the permission of Officer Doe. ECF
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27 ² Shannahan transported Valle back to the hospital after jail staff refused to accept Valle for booking. ECF
28 No. 14 at 3. Valle acknowledges, however, that Shannahan was relieved by Officer Doe shortly after Valle
arrived at the hospital the second time. *See id.* Plaintiff does not allege Shannahan was present during
Obler’s second examination during which the purported assault occurred.

1 No. 14 at 3.

2 a. Fourteenth Amendment

3 First, to the extent Valle also seeks to raise a Fourteenth Amendment substantive
4 due process claim premised on Obler’s purported cavity search and/or Doe’s assent to the
5 search, he fails to state a claim. “Where a plaintiff premises a Fourth Amendment claim
6 and a substantive due process claim on the same offending conduct, the due process claim
7 cannot go forward.” *Loftis v. Ramos*, 491 F. Supp. 3d 753, 768 (S.D. Cal. 2019) (citing
8 *Graham v. O’Connor*, 490 U.S. 386, 394 (1989) (“Because the Fourth Amendment
9 provides an explicit textual source of constitutional protection against . . . physically
10 intrusive governmental conduct, that Amendment, not the more generalized notion of
11 ‘substantive due process,’ must be the guide for analyzing these claims . . .”). The Fourth
12 Amendment specifically addresses the search at issue in this case, and thus Plaintiffs’
13 claims must be considered under the Fourth Amendment. Therefore, the Court
14 DISMISSES Valle’s Fourteenth Amendment claims against Obler and Doe without leave
15 to amend. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1); *Iqbal*, 556 U.S. at 678,
16 *Hartmann*, 707 F.3d at 1130.

17 b. Fourth Amendment

18 As to the Fourth Amendment, however, the Court finds Valle has alleged sufficient
19 facts to state plausible claims against Obler and Doe.³ The Fourth Amendment requires
20 that a nonconsensual physical search of a suspect’s body, like any other nonconsensual
21 search, be reasonable. *See Winston v. Lee*, 470 U.S. 753, 759–60 (1985). However, “[a]n
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24 ³ Valle alleges Obler was under contract with National City to provide medical services to arrestees. *See*
25 *Lopez v. Dep’t of Health Servs.*, 939 F.2d 881, 883 (9th Cir. 1991) (per curiam) (finding state action where
26 hospital “contract [ed] with the state . . . to provide medical services to indigent citizens”). In addition, a
27 private individual or entity may be considered to be acting under color of state law if a private party
28 intentionally engages in joint action with a state official to deprive someone of a constitutional right. *See*
United Steelworkers of Am. v. Phelps Dodge Corp., 865 F.2d 1539, 1540 (9th Cir. 1989) (en banc)
 (“Private parties act under color of state law if they willfully participate in joint action with state officials
 to deprive others of constitutional rights.”)

1 intrusion into the human body implicates an individual’s ‘most personal and deep-rooted
2 expectations of privacy.’” *United States v. Fowlkes*, 804 F.3d 954, 960-61 (9th Cir. 2015)
3 (quoting *Winston*, 470 U.S. at 760); *Tribble v. Gardner*, 860 F.2d 321, 324 (9th Cir. 1988)
4 (stating “digital rectal searches are highly intrusive and humiliating”); *Kennedy v. Los*
5 *Angeles Police Dep’t*, 901 F.2d 702, 711 (9th Cir. 1989). (“The intrusiveness of a body-
6 cavity search cannot be overstated.”). As such, “Fourth Amendment analysis thus
7 require[s] a discerning inquiry into the facts and circumstances to determine whether the
8 intrusion[s] [are] justifiable.” *Winston*, 470 U.S. at 760; *see Fowlkes*, 804 F.3d at 961
9 (searches involving intrusion into a person’s body implicate “greater constitutional
10 concerns”); *George v. Edholm*, 752 F.3d 1206, 1217 (9th Cir. 2014) (stating that a body
11 search, requires “a more substantial justification” than other searches). Here, Valle alleges
12 Obler conducted a nonconsensual cavity search and a sexual assault. Taking the facts
13 alleged in the SAC as true, the Court finds Valle has stated a plausible Fourth Amendment
14 claim against Obler.

15 The Court further finds Valle’s allegations are sufficient to state a plausible Fourth
16 Amendment claim against Doe. *See George v. Edholm*, 752 F.3d 1206, 1215 (9th Cir.
17 2014) (“[O]fficers may not avoid the requirements of the Fourth Amendment by inducing,
18 coercing, promoting, or encouraging private parties to perform searches they would not
19 otherwise perform.”); *Norwood v. Harrison*, 413 U.S. 455, 465 (1973) (“[I]t is . . .
20 axiomatic that a state may not induce, encourage or promote private persons to accomplish
21 what it is constitutionally forbidden to accomplish.”); *Skinner v. Ry. Labor Execs.’ Ass’n*,
22 489 U.S. 602, 614 (1989) (stating a search may be attributed to the state when “the private
23 party acted as an instrument or agent of the Government” in conducting the search).

24 **5. Summary of Claims Surviving Screening**

25 In sum, the Court finds only Plaintiff’s Fourth Amendment claims involving
26 Defendant Obler and Doe are “sufficient to warrant . . . an answer.” *Wilhelm*, 680 F.3d at
27 1123. But because Plaintiff’s SAC identifies only Obler by name, it will direct U.S.
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1 Marshal service upon Obler only at this time.⁴ See 28 U.S.C. § 1915(d) (“The officers of
2 the court shall issue and serve all process, and perform all duties in [IFP] cases.”); Fed. R.
3 Civ. P. 4(c)(3) (“[T]he court may order that service be made by a United States marshal or
4 deputy marshal . . . if the plaintiff is authorized to proceed in forma pauperis under 28
5 U.S.C. § 1915.”).

6 All remaining allegations in Plaintiff’s SAC fail to state a claim upon which § 1983
7 can be granted and are therefore **DISMISSED** *sua sponte* pursuant to 28 U.S.C.
8 §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).

9 III. CONCLUSION AND ORDER

10 For the above reasons, the Court hereby:

11 1. **DISMISSES** Defendants Stanich and Shannahan and **DIRECTS** the Clerk of
12 the Court to terminate them as parties to this matter based on Plaintiff’s failure to state a
13 claim against them pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).

14 2. **DISMISSES** all claims and causes of action in Plaintiff’s Second Amended
15 Complaint as alleged against Defendants Obler, and Doe for failing to state a claim upon
16 which § 1983 relief can be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and
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19 ⁴ While the Court finds Plaintiff’s Fourth Amendment allegations involving Doe sufficiently pleaded to
20 survive initial screening pursuant to 28 U.S.C. §§ 1915(e) and 1915A(b), he must first identify Officer
21 Doe, submit an amended pleading and/or file a motion to substitute Doe’s true name, and request U.S.
22 Marshal service upon Doe as required by Federal Rule of Civil Procedure 4 before any claim alleged
23 against him may proceed. See *Aviles v. Village of Bedford Park*, 160 F.R.D. 565, 567 (1995) (stating Doe
24 defendants must be identified and served within [90] days of the commencement of the action against
25 them); Fed. R. Civ. P. 15(c)(1)(C) & 4(m). Generally, Doe pleading is disfavored, *Gillespie v. Civiletti*,
26 629 F.2d 637, 642 (9th Cir. 1980), and in most instances it is impossible for the United States Marshal to
27 serve a party identified only as a Doe. See *Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994) (stating
28 that in order to properly effect service under Rule 4 in an IFP case, the plaintiff is required to “furnish the
information necessary to identify the defendant.”); *Finefeuiaki v. Maui Cmty. Corr. Ctr. Staff & Affiliates*,
2018 WL 3580764, at *6 (D. Haw. July 25, 2018) (noting that “[a]s a practical matter, the United States
Marshal cannot serve a summons and complaint on an anonymous defendant.”). However, where the
identity of parties is not known prior to filing of an action, Ninth Circuit authority permits Plaintiff the
opportunity to pursue appropriate discovery to identify unknown Does, unless it is clear that discovery
would not uncover their identities, or his pleading requires dismissal for other reasons. See *Wakefield v.*
Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie*, 629 F.2d at 642).

1 1915A(b)(1), *except* the Fourth Amendment claims against Obler and Doe.

2 3. **DIRECTS** the Clerk to issue a summons as to Plaintiff's Second Amended
3 Complaint upon Defendant OBLER *only*, and forward it to him along with a blank U.S.
4 Marshal Form 285 for Defendant OBLER. In addition, the Clerk will provide Plaintiff with
5 a certified copy of this Order and certified copy of his Second Amended Complaint (ECF
6 No. 14), and the summons so that he may serve Defendant OBLER. Upon receipt of this
7 "IFP Package," Plaintiff must complete the Form 285 as completely and accurately as
8 possible, include an address where Defendant OBLER may be found and/or subject to
9 service, and return them to the United States Marshal according to the instructions the Clerk
10 provides in the letter accompanying his IFP package.

11 4. **ORDERS** the U.S. Marshal to serve a copy of Plaintiff's Second Amended
12 Complaint and summons upon Defendant OBLER at the address provided by Plaintiff on
13 the USM Form 285 provided, and to file an executed waiver of personal service upon
14 Defendant OBLER with the Clerk of Court as soon as possible after its return. Should
15 Defendant fail to return the U.S. Marshal's request for waiver of personal service within
16 90 days, the U.S. Marshal must instead file the completed Form USM 285 Process Receipt
17 and Return with the Clerk of Court, include the date the summons, Amended Complaint,
18 and request for waiver were mailed to Defendant OBLER, and indicate why service
19 remains unexecuted. All costs of service will be advanced by the United States; however,
20 if a Defendant located within the United States fails without good cause to sign and return
21 the waivers requested by the Marshal on Plaintiff's behalf, the Court will impose upon that
22 Defendant any expenses later incurred in making personal service. *See* 28 U.S.C.
23 § 1915(d); Fed. R. Civ. P. 4(c)(3).

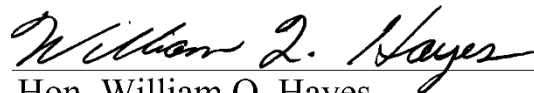
24 5. **ORDERS** Defendant OBLER, once served, to reply to the claims found
25 sufficient to survive screening in Plaintiff's Second Amended Complaint, *and any*
26 *subsequent pleading Plaintiff may file in this matter in which they are named as parties,*
27 within the time provided by the applicable provisions of Federal Rule of Civil Procedure
28 12(a) and 15(a)(3). *See* 42 U.S.C. § 1997e(g)(2) (while a defendant may occasionally be

1 permitted to “waive the right to reply to any action brought by a prisoner confined in any
2 jail, prison, or other correctional facility under section 1983,” once the Court has conducted
3 its *sua sponte* screening pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b), and thus, has
4 made a preliminary determination based on the face of the pleading alone that Plaintiff has
5 a “reasonable opportunity to prevail on the merits,” defendant is required to respond); and

6 **6. ORDERS** Plaintiff, after service has been effected by the U.S. Marshal, to
7 serve upon Defendant(s), or if appearance has been entered by counsel, upon Defendant’s
8 counsel, a copy of every further pleading, motion, or other document submitted for the
9 Court’s consideration pursuant to Fed. R. Civ. P. 5(b). Plaintiff must include with every
10 original document he seeks to file with the Clerk of the Court, a certificate stating the
11 manner in which a true and correct copy of that document has been served on Defendants
12 or their counsel, and the date of that service. *See* S.D. Cal. CivLR 5.2. Any document
13 received by the Court which has not been properly filed with the Clerk or which fails to
14 include a Certificate of Service upon the Defendants, or their counsel, may be disregarded.

15 **IT IS SO ORDERED.**

16 Dated: September 24, 2024


17 Hon. William Q. Hayes
18 United States District Court
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