

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

MANUEL HIERRO,

Plaintiff,

vs.

CASE NO. 5:09CV68-RS/AK

CELESTE MACDONALD, et al,

Defendants.

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ORDER

Presently before the Court are Plaintiff's Motion for Extension of Time to Answer Defendant's Motion for Summary Judgment (doc. 48); Plaintiff's First Amended Complaint (doc. 49); and Plaintiff's Motion to Re-name Defendants Jane Doe and Dr. Lomangcolob. (Doc. 50).

As an initial matter, Plaintiff did not have leave to file the First Amended Complaint on January 14, 2010, (doc. 49), and it should be **STRICKEN** from the docket. Also, he has indicated in his motion to re-name that he wishes to delete Dr. Lomangcolob from this lawsuit, yet he is named again in the first amended complaint.

Plaintiff seeks additional time to respond to the motion for summary judgment, but he does not specify how much time he needs to respond. (Doc. 48). Nonetheless, the motion is **GRANTED**, and Plaintiff shall have thirty days to respond to the motion filed by Defendants Cherry and McDonald (doc. 46) since the Court is dismissing

Defendant Lomangcolob from this lawsuit pursuant to Plaintiff's motion (doc. 50) making Dr. Lomangcolob's motion for summary judgment (doc. 45) **MOOT**.

Finally, Plaintiff has discovered the name of Dr. Jane Doe (Sandra Hodges) and wishes his complaint served upon her at Orange County Jail, 3855 S. Johns Young Parkway, Orlando, Florida 32839. He also wants Dr. Pablo Lomangcolob dismissed from the lawsuit, and instead seeks to name Dr. Can Tran in his place. Plaintiff contends that the names only need be changed and that all claims asserted in the original complaint are re-asserted against these two new defendants. While the Court will order service upon Dr. Hodges as requested, it will not order service upon Dr. Tran without more information. The Court has reviewed medical records submitted in conjunction with the pending motions for summary judgment and can find no reference to Dr. Can Tran. If Plaintiff wants service upon this individual, he must file another motion seeking to add this party as a Defendant on or before February 12, 2010, and he shall provide specifically what discovery he reviewed that named this person as the one responsible for refusing to treat him upon his arrival at Lake Butler and throughout his stay at RMC until he ordered Plaintiff transferred to a work camp.

Accordingly, it is

ORDERED:

1. Defendant's Motion to Re-name Defendants (doc. 50) is **GRANTED IN PART**, insofar as Dr. Lomangcolob is **DISMISSED** as a defendant in this lawsuit and Dr. Sandra Hodges will be served by separate order. The motion is **DENIED** as to service

upon Dr. Can Tran and Plaintiff shall file another motion as directed above if he wants service on this defendant.

2. Plaintiff's first amended complaint (doc. 49) is ordered **STRICKEN**.

3. Plaintiff's Motion for extension of time (doc. 48) is **GRANTED**, and he shall have through **March 1, 2010**, to respond to the motion for summary judgment filed by Defendants Cherry and McDonald.

4. Defendant Lomangcolob's motion for summary judgment (doc. 45) is **DEEMED MOOT**.

DONE AND ORDERED this 1st day of February, 2010.

s/ A. KORNBLUM

ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE