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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARK PICOZZI,

Plaintiff,

v.

CLARK COUNTY DETENTION CENTER,
et al.,

Defendants.

Case No. 2:15-cv-00816-JCM-PAL

ORDER

(Mot. to Serve Defs. – ECF Nos. 61, 67)

This matter is before the court on Plaintiff Mark Picozzi’s Motion For an Order to Serve the Unserved Defendants (ECF No. 61) and Motion to Have USM Serve Unserved Defendants (ECF No. 67). These Motions are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 and 1-7 of the Local Rules of Practice.

BACKGROUND

Mr. Picozzi is a pro se prisoner currently in the custody of the Nevada Department of Corrections. He has received permission to proceed in this case *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915 and LSR 1-1 of the Local Rules of Practice. See IFP Application (ECF No. 3); Screening Order (ECF No. 15). This case arises from Picozzi’s allegations, pursuant to 28 U.S.C. § 1983, regarding his treatment while he was incarcerated at the Clark County Detention Center (“CCDC”). Upon review of the Amended Complaint (ECF No. 14), the court issued a Screening Order (ECF No. 15) finding that Picozzi stated four plausible claims. *Id.* at 14. The court directed the Clerk of the Court to issue summons to the named defendants and instructed Picozzi to provide the U.S. Marshals Service (“USM”) with the information to serve them. *Id.*

Defendants Coker, Daos, Goins, Hightower, Judd, and Phillips (“CCDC Defendants”) were served on March 23, 2016. See Executed Summons (ECF No. 21). However, the USM was

1 unable to locate or complete service for Defendants Brooks, Carr, Garcia, Hans, Jolley, Razzo
2 (“Unserved Defendants”). *See* Unexecuted Summons (ECF No. 20).

3 On November 2, 2016, the court entered an Order (ECF No. 55) directing counsel for the
4 CCDC Defendants to: (1) submit the Unserved Defendants’ personal information under seal and
5 (2) file a notice of compliance on the public docket. The court informed Mr. Picozzi that he would
6 have 14 days from the notice of compliance to file a motion requesting an order directing the USM
7 to serve the Unserved Defendants and, upon filing such motion, the court will reset the service
8 deadline and the USM will reattempt service. *Id.* Counsel for the CCDC Defendants timely
9 complied with the court’s Order. *See* Sealed Response (ECF No. 59); Notice (ECF No. 60). The
10 Sealed Response indicated that service would be accepted for defendants Officer Michael Brooks,
11 Officer Joanne Hans, Officer Eduardo Garcia, Officer Gerald Razo, and retired Officer Lynn Jolly.
12 However, counsel stated there is no record of a current or former corrections officer named Carr.
13 Picozzi timely filed his Motion For an Order to Serve the Unserved Defendants (ECF No. 61).

14 On March 15, 2017, the court granted Mr. Picozzi’s request to substitute Nurse Amanda
15 Vertner in place of Jane Doe #1. *See* Order (ECF No. 66). Based on this substitution, the court
16 directed counsel for the CCDC Defendants by March 29, 2017, to: (1) file under seal the last known
17 address and telephone number of Vertner and/or indicate whether counsel is authorized to accept
18 service on her behalf; and (2) file a notice of compliance on the public docket. *Id.* The court noted
19 that Picozzi had timely filed the motion (ECF No. 61) requesting service and he did not need not
20 file another motion regarding service for Vertner. Order (ECF No. 66) at 4. Once counsel filed
21 the notice regarding Vertner, the court stated that it would “address the pending motion regarding
22 service as well as the parties’ Stipulation regarding Discovery Deadlines (ECF No. 64).”
23 Additionally, he was informed that the court will reset the service deadline and the USM will
24 reattempt service. Counsel for the CCDC Defendants timely complied with the court’s Order
25 regarding Vertner. *See* Sealed Response (ECF No. 70); Notice (ECF No. 71).

26 On March 27, 2017, Picozzi filed a duplicative motion (ECF No. 67) regarding service of
27 the Unserved Defendants and Nurse Vertner. The motion states that he has not received the full
28 names, badge numbers, addresses and telephone numbers of the Unserved Defendants pursuant to

1 the court's Order (ECF No. 55). Thus, he asks the court for the Unserved Defendants' information
2 and an order for service on Vertner.

3 DISCUSSION

4 As a preliminary matter, the court clarifies that counsel for the CCDC Defendants *was not*
5 *ordered to disclose directly to Picozzi* the full names, badge numbers, addresses and telephone
6 numbers of the Unserved Defendants. For privacy and security reasons, the addresses and
7 telephone numbers of law enforcement officers are not disclosed to incarcerated plaintiffs or made
8 available on the public docket. Instead, the court ordered counsel to file the information with the
9 court *under seal* and also serve Picozzi with a notice that allows him to comply with his obligation
10 to request an order for service. Once the information is filed under seal and an appropriate motion
11 for service is submitted, the court directs the clerk's office to provide the sealed information
12 *directly to the USM*. Counsel for the CCDC Defendants complied with the two Orders (ECF
13 Nos. 55, 66).

14 Mr. Picozzi's Motion For an Order to Serve (ECF No. 61) will be granted in part as to
15 defendants Brooks, Hans, Garcia, Razo, Jolly, and Vertner, and denied in part without prejudice
16 as to defendant Carr. The court will direct the USM to: (1) reattempt service on defendants Brooks,
17 Hans, Garcia, Razo, and Jolly at the address provided in the Sealed Response (ECF No. 59); and
18 (2) attempt service on Vertner at the last known address provided in the Sealed Response (ECF
19 No. 70). If the USM is unable to serve these defendants and Picozzi wishes to have service
20 attempted again, he must file a timely motion specifying a more detailed name and/or address, or
21 whether some other manner of service should be attempted. Because defendant Carr was not
22 identified in the Sealed Response, Picozzi must file a timely motion specifying a different or more
23 detailed name and/or address for Carr, or whether some other manner of service should be
24 attempted. However, he is once again warned that he is ultimately responsible for providing the
25 USM with accurate and sufficient information to effectuate service. *See Walker v. Sumner*, 14
26 F.3d 1415, 1422 (9th Cir. 1994). Pursuant to Rule 4(m), Picozzi's failure to comply with this
27 Order by accomplishing service by **June 5, 2017**, will result in a recommendation to the district
28 judge that this case be dismissed without prejudice.

1 The court will deny Picozzi's new motion (ECF No. 67) as duplicative. The court cautions
2 Mr. Picozzi that filing multiple motions requesting the same relief is an abusive litigation tactic
3 that taxes the resources of the court and all of the parties to this lawsuit. Rule 11 of the Federal
4 Rules of Civil Procedure provides that sanctions may be imposed on an unrepresented party who
5 signs a paper that is either filed with the court for an improper purpose or is frivolous. *See Nugget*
6 *Hydroelectric, L.P. v. Pacific Gas & Elec. Co.*, 981 F.2d 429, 439 (9th Cir. 1992) (upholding Rule
7 11 sanctions because a party's second motion to compel largely duplicated the first) (citing
8 *Townsend v. Holman Consulting Corp.*, 929 F.3d 1358, 1362 (9th Cir. 1990) (en banc)). Once a
9 motion is filed, filing a duplicate motion will not speed up the court's review of a movant's request
10 since motions are generally addressed in the order which they were filed. To the contrary, filing
11 duplicate motions increases the court's workload and generally delays decision while a new round
12 of responses and reply deadlines run. Picozzi is warned that continued motion practice requesting
13 relief that has already been requested or making frivolous, unsupported requests may result in the
14 imposition of sanctions, including dismissal of this case.

15 Having reviewed and considered the matters,

16 **IT IS ORDERED:**


- 17 1. Plaintiff Mark Picozzi's Motion For an Order to Serve the Unserved Defendants (ECF
18 No. 61) is GRANTED IN PART as to Defendants Brooks, Hans, Garcia, Razo, Jolly,
19 and Vertner and DENIED IN PART without prejudice as to Defendant Carr.
- 20 2. Picozzi's Motion to Have USM Serve Unserved Defendants (ECF No. 67) is DENIED
21 as duplicative.
- 22 3. The Clerk of the Court SHALL ISSUE SUMMONS **UNDER SEAL** for Defendants
23 Officer Michael Brooks, Officer Joanne Hans, Officer Eduardo Garcia, Officer Gerald
24 Razo, Officer Lynn Jolly, and Nurse Amanda Vertner and deliver the same to the USM
25 for service along with a copy of the Amended Complaint (ECF No. 14), Sealed
26 Responses (ECF Nos. 59, 70), and this Order.

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- 1 4. The USM is directed to serve Defendants Officer Michael Brooks, Officer Joanne
2 Hans, Officer Eduardo Garcia, Officer Gerald Razo, Officer Lynn Jolly, and Nurse
3 Amanda Vertner at the addresses listed in the Sealed Responses (ECF No. 59, 70).
- 4 5. If the USM is unable to serve defendant(s) and Mr. Picozzi wishes to have service
5 attempted again, he must timely file a motion specifying a more detailed name and/or
6 address for defendant(s), or whether some other manner of service should be attempted.
- 7 6. Because defendant Carr was not identified in the Sealed Response, Picozzi must file a
8 timely motion specifying a different or more detailed name and/or address for Carr, or
9 whether some other manner of service should be attempted.
- 10 7. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the deadline to
11 accomplish service on all defendants is extended until **June 5, 2017**.
- 12 8. Mr. Picozzi must comply with this Order by accomplishing service by **June 5, 2017**,
13 and his failure to complete service by that deadline may result in a recommendation to
14 the district judge that any unserved defendant be dismissed without prejudice.

15 Dated this 6th day of April, 2017.

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18 PEGGY A. LEEN
19 UNITED STATES MAGISTRATE JUDGE
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