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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUSTIN L. TRIPP,

Plaintiff,

v.

CLARK COUNTY, et al.,

Defendants.

Case No. 2:17-cv-01964-JCM-PAL

ORDER

(Notices – ECF Nos. 40–43)

This matter is before the court on Defendants’ Sealed Notices of Contact Information for Unserved Defendants (ECF Nos. 40, 42) and Notice of Compliance (ECF Nos. 41, 43). These notices are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

Mr. Tripp is a prisoner in the custody of the Federal Bureau of Prisons. He is proceeding in this case *pro se* and *in forma pauperis*. This case arises from Tripp’s allegations, pursuant to 42 U.S.C. § 1983, regarding his treatment while he was incarcerated at the Clark County Detention Center. The court reviewed the First Amended Complaint (ECF No. 14) and determined that it states five plausible claims for (1) Fourth Amendment excessive force against defendants Torres and Rose; (2) Fourteenth Amendment inadequate medical care against defendants Rose, Torres, and John Doe #1; (3) Fourteenth Amendment conditions of confinement against defendant John Doe #1; (4) Fourteenth Amendment inadequate medical care against defendants NaphCare, Inc., Dr. Durant, Eric Lopez, nurse Rachel, and John Does #2, 3, 4, 5, and 6; and (5) Fourteenth Amendment inadequate medical care against defendant Esparza. Screening Order (ECF No. 18).

The court directed the Clerk of Court to issue summons to defendants Dr. Durant, Esparza, Eric Lopez, NaphCare, Inc., nurse Rachel, M. Rose, and J. Torres and deliver the same to the U.S. Marshal Service (“USM”) for service. *Id.*, ECF No. 19. Service was accomplished for Rose,

1 Lopez, and NaphCare. *See* Executed Summonses (ECF Nos. 21, 23, 26). However, the USM was
2 unable to complete service for Torres, Dr. Durant, Esparza, and Rachel at the addresses he
3 provided. *See* Unexecuted Summonses (ECF Nos. 20, 22).

4 Tripp filed multiple motions seeking the court’s assistance in identifying additional
5 information to serve the defendants. Order (ECF No. 38) (granting in part and denying in part
6 Tripp’s motions (ECF Nos. 25, 34, 35)). The court directed defense counsel to attempt to identify
7 the unserved defendants based on the information Mr. Tripp provided in his pleadings and motions.
8 If any defendant(s) was identified, defense counsel was instructed to file with the court under seal
9 the full name, badge number (if applicable), and current or last known address and telephone
10 number, and file a notice of compliance on the public docket to inform Tripp whether any
11 defendant(s) was identified.

12 On March 18, 2019, counsel filed Sealed Notices of Contact Information for Unserved
13 Defendants (ECF Nos. 40, 42) and Notice of Compliance (ECF Nos. 41, 43). Counsel for
14 NaphCare and Lopez identified “nurse Rachel” as Rachel Rudd and “Dr. Durant” as Dr. Harry
15 Duran, and provided their last known addresses under seal. ECF Nos. 40, 41. Counsel for Officer
16 Rose identified “Torres” as Officer Jacquelyn Torres and “Esparza” as Officer Cesar Esparza, and
17 provided their badge numbers and address under seal. ECF Nos. 42, 43.

18 Based on the additional information provided by defense counsel, the court will instruct
19 the Clerk of Court to reissue summonses to these defendants and direct the USM to reattempt
20 service. Mr. Tripp is once again cautioned that he is ultimately responsible for providing the USM
21 with accurate and sufficient information to effectuate service. If the USM is unable to serve
22 defendant(s) with this new information and Tripp wishes to have service attempted again, he must
23 file a timely motion specifying a more detailed name and/or address for said defendant, or whether
24 some other manner of service should be attempted. Mr. Tripp’s failure to comply with this Order
25 by accomplishing service by **May 17, 2019**, will result in a recommendation to the district judge
26 that any unserved defendant(s) be dismissed without prejudice.

27 Accordingly,

28 ///

1 **IT IS ORDERED:**

- 2 1. The Clerk of Court shall SUBSTITUTE the names of the following defendants on the
3 court's docket: (i) Rachel Rudd for "nurse Rachel" or "Rachel," (ii) Dr. Harry Duran
4 for "Dr. Durant," (iii) Jacquelyn Torres for "J. Torres," and (iv) Cesar Esparza for
5 "Esparza."
- 6 2. The Clerk of Court shall ISSUE SUMMONS *UNDER SEAL* for defendants Rachel
7 Rudd, Dr. Harry Duran, Jacquelyn Torres (P#15237), and Cesar Esparza (P#5733) and
8 deliver the same to the USM for service along with a copy of the Amended Complaint
9 (ECF No. 14), Sealed Notices of Contact Information for Unserved Defendants (ECF
10 Nos. 40, 42), and this Order.
- 11 3. The Clerk of the Court shall MAIL Plaintiff four (4) USM-285 forms along with
12 instructions and a copy of this Order.
- 13 4. Plaintiff must complete the USM-285 forms (except for defendants' addresses) and
14 mail them directly to the USM. The forms must be received by **April 12, 2019**.¹
- 15 5. Once the USM-285 forms are received, the USM shall attempt to serve Rachel Rudd,
16 Dr. Harry Duran, Jacquelyn Torres, and Cesar Esparza at the addresses provided in the
17 Sealed Notices of Contact Information for Unserved Defendants (ECF Nos. 40, 42).
- 18 6. After attempting service, the USM shall redact the process receipt and return forms so
19 that the defendants' addresses are not made publicly available.
- 20 7. The USM shall file the redacted process receipt and return forms with the court
21 indicating whether each defendant was served.
- 22 8. If the USM is unable to serve defendant(s) with the new information and Mr. Tripp
23 wishes to have service attempted again, he must timely file a motion specifying a more
24 detailed name and/or address for defendant(s), or whether some other manner of service
25 should be attempted.

26 _____
27 ¹ Plaintiff is advised that the mailing address to send the USM-285 forms is:


28 U.S. Marshal Service
 333 Las Vegas Boulevard South, Suite 2058
 Las Vegas, NV 89101

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9. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the deadline to accomplish service on all defendants is **May 17, 2019**.

10. Mr. Tripp must comply with this Order by accomplishing service by **May 17, 2019**, and his failure to complete service by that deadline may result in a recommendation to the district judge that any unserved defendant be dismissed without prejudice.

Dated this 19th day of March, 2019.



PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE