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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Virgil E. Holt,

Plaintiff,

vs.

D. G. Stockman, et al.,

Defendants.

No. CV 1-04-6073-PHX-MHM

**ORDER**

Pending before the Court is Plaintiff's Motion to Alter/Amend Order Finding Complaint States Claim to Include Defendants the Court Inadvertently Left Out for Service of Process of Summons and Complaint and USM 285 Forms (Doc. ## 35 & 38)<sup>1</sup> and Plaintiff's Request (Motion) for Extension of Time (Doc. # 39). Plaintiff notes that on August 28, 2008, Judge Oliver Wanger issued an order (Doc. # 29) granting Plaintiff's Motion for Reconsideration and adopting in full Magistrate Judge William Wunderlich's June 18, 2008 Findings and Recommendation to Dismiss Uncognizable Claims and Proceed on Cognizable Claims. In his June 18, 2008 order, the Magistrate Judge found that Plaintiff had stated colorable claims against certain named defendants. (Doc. # 20, pp. 17-18) However, in a subsequent order issued on September 3, 2008, directing Plaintiff to complete USM-285 forms, the Magistrate Judge omitted the names of some of the defendants listed in his prior order. (Doc. # 30) A

<sup>1</sup> It appears that Plaintiff filed this document twice.

1 review of these orders reveals that the following defendants were inadvertently omitted from  
2 the September 3, 2008 order:

3 Mr. Yamamoto

4 D. D. Ortiz

5 R. Leon

6 M. T. Cisneros

7 D. Bravo

8 R. Lowden

9 Does 2-13, 17, 18-25.

10 Accordingly, in light if the foregoing,

11 **IT IS ORDERED** granting Plaintiff's Motion to Alter/Amend Order Finding Complaint  
12 States Claim to Include Defendants the Court Inadvertently Left Out for Service of Process  
13 of Summons and Complaint and USM-285 Forms. (Doc. # # 35 & 38)

14 **IT IS FURTHER ORDERED** that service is appropriate for the above named  
15 defendants. With respect to Does 2-13, 17, and 18-25, the Court notes that as a practical  
16 matter, it is impossible in most instances for the United States Marshal or his designee to  
17 serve a summons and complaint or amended complaint upon an anonymous defendant.

18 **IT IS FURTHER ORDERED** directing the Clerk of the Court to send to Plaintiff six  
19 USM-285 forms, six summonses, a Notice of Submission of Documents form, an instruction  
20 sheet and a copy of the May 15, 2006 second amended complaint.

21 **IT IS FURTHER ORDERED** that within 30 days from the date of this order, Plaintiff  
22 shall complete the Notice of Submission of Documents and submit the completed Notice to  
23 the Court with the following documents: (1) completed summonses, (2) one completed USM-  
24 285 form for each defendant named above, and (3) seven copies of the endorsed second  
25 amended complaint filed on May 15, 2006. Plaintiff need not attempt service on defendants  
26 and need not request waiver of service. Upon the Court's receipt of the above-described  
27 documents,

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1       **IT IS FURTHER ORDERED** directing the Clerk of the Court to forward said documents  
2 to the United States Marshal.

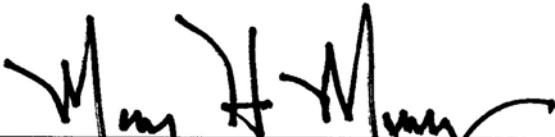
3       Upon the United States Marshal's receipt of said documents,

4       **IT IS FURTHER ORDERED** directing the United States Marshal to serve the above-  
5 named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

6       **IT IS FURTHER ORDERED** granting Plaintiff's Motion for Extension of Time  
7 requesting 30 days from the date of this order to complete the service procedures listed  
8 above. (Doc. # 39)

9       DATED this 12<sup>th</sup> day of February, 2009.

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Mary H. Murguía  
United States District Judge