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

**DAVON E. MCCOY,**  
  
Plaintiff,  
  
**v.**  
  
**R. SPIDLE, et al.,**  
  
Defendants.

Case No. 1:07-cv-00198-DCB

**ORDER**

Plaintiff has answered this Court’s directive to show cause why Defendant McNamara should not be dismissed for failure to be timely served the Complaint and Summons in this case. Plaintiff is unable to provide any further service information to the United States Marshal to effect service on Defendant McNamara.

Defendants have answered Plaintiff’s Motion to Compel further discover aimed at Defendant’s responses to his document requests dated November 12, 2008. Defendants provided all the discovery that was within their possession and have supplemented their responses to provide further discovery that was not within their possession, but was nevertheless obtained and provided to the Plaintiff in an effort to resolve this discovery dispute.

Defendants have filed a Motion for an Extension of time to file a motion for summary judgment, which is currently due February 6, 2009. The extension to February

1 20, 2009. is a reasonable request and the Court finds good cause to reset the deadline for  
2 filing dispositive motions in this case.

3 **Accordingly,**

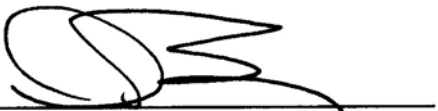
4 **IT IS ORDERED** that Defendant McNamara is dismissed from this action  
5 without prejudice. Fed. R. Civ. P.4(m).

6 **IT IS FURTHER ORDERED** that the Plaintiff's Motion to Compel (document  
7 87) is DENIED.

8 **IT IS FURTHER ORDERED** that the Defendants' Motion for Extension  
9 (document 97) is GRANTED to extend the deadline for filing dispositive motions to  
10 February 20, 2009.

11 **IT IS FURTHER ORDERED** that in the event this case is not resolved on a  
12 dispositive motion, the Court shall set appropriate case management deadlines for the  
13 case to proceed to trial.

14 DATED this 6<sup>th</sup> day of February, 2009.

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18 David C. Bury  
19 United States District Judge  
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