1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8 9 ERNEST MILLER, CASE NO. 1:07-cv-01416-LJO-DLB PC 10 Plaintiff, ORDER FINDING SERVICE OF AMENDED COMPLAINT APPROPRIATE, AND 11 v. FORWARDING SERVICE DOCUMENTS TO PLAINTIFF FOR COMPLETION AND CDC WARDEN AND STAFF, et al., 12 RETURN WITHIN THIRTY DAYS 13 Defendants. (Doc. 27) 14 Plaintiff Ernest Miller ("Plaintiff") is a state prisoner proceeding pro se in this civil rights 15 action pursuant to 42 U.S.C. § 1983 and California law. Plaintiff filed this action on September 27, 16 17 2007. The Court has screened Plaintiff's amended complaint pursuant to 28 U.S.C. § 1915A and finds that service is appropriate for defendant Ortize. Fed. R. Civ. P. 8(a); Erickson v. Pardus, 127 18 S.Ct. 2197, 2200 (2007); Alvarez v. Hill, 518 F.3d 1152, 1157-58 (9th Cir. 2008). Accordingly, it 19 is HEREBY ORDERED that: 20 Service shall be initiated on the following defendants: 21 1. **ORTIZE** 22 2. 23 The Clerk of the Court shall send Plaintiff one (1) USM-285 form, one (1) summons, a Notice of Submission of Documents form, an instruction sheet and a copy of the 24 25 amended complaint filed June 9, 2008. 26 <sup>1</sup> In a Findings and Recommendations issued December 18, 2008, the Court recommended dismissal of 27 defendants Scribner, Adams, Mendes, Kibler and Fisher for plaintiff's failure to state a claim upon which relief may be granted, and recommended that this action proceed only against defendant Ortize for violation of the Eighth 28 Amendment.

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- 3. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the attached Notice of Submission of Documents and submit the completed Notice to the Court with the following documents:
  - a. Completed summons;
  - b. One completed USM-285 form for each defendant listed above; and
  - c. Two (2) copies of the endorsed amended complaint filed June 9, 2008.
- 4. Plaintiff need not attempt service on Defendants and need not request waiver of service. Upon receipt of the above-described documents, the Court will direct the United States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.
- 5. The failure to comply with this order will result in a recommendation that this action be dismissed.

IT IS SO ORDERED.

Dated: February 4, 2009 /s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE