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

Oba Lee Frelimo,

Plaintiff,

vs.

J. Garcia, et al.,

Defendants.

No. 1:08-CV-01040-SMM

ORDER

On February 22, 2010, the U.S. Marshal Service filed a Request for Court Order Reimbursing U.S. Marshal Service Fees (Doc. 31). The U.S. Marshal seeks reimbursement of the service fees incurred with serving G. Smith in the total amount of \$250.25. In an Order filed on March 12, 2010, the Court found that the California Department of Corrections, rather than Defendants, should pay the service fees to the U.S. Marshal (Doc. 34). The Court provided the California Department of Corrections the option to pay the service fees to the U.S. Marshal now, or alternatively, to defer the costs to the conclusion of the case when judgment is entered (Id.). The California Department of Corrections was ordered to inform the Court of its choice by March 26, 2010 (Id.). Since nothing was filed with the Court by that date, the Court entered a subsequent Order that extended the deadline for a response until April 30, 2010 (Doc. 35).

Despite two Court orders, nothing has been filed with the Court regarding service fees. In the absence of any response from the California Department of Corrections, the Court will defer the payment of the service costs until the entry of judgment. The Court finds, however, that the California Department of Corrections has waived any contrary

1 argument regarding paying the service fees to the U.S. Marshal now.

2 Accordingly,

3 **IT IS HEREBY ORDERED** that payment of the service fees incurred with serving
4 G. Smith in the amount of \$250.25 will be deferred to the conclusion of the case when final
5 judgment is entered.

6 **IT IS FURTHER ORDERED** that a copy of this Order be mailed to Stephanie
7 Wheatley, Senior Staff Counsel, Office of Legal Affairs, P.O. Box 942883, Sacramento, CA
8 94283-0001, in addition to Plaintiff.

9 DATED this 4th day of May, 2010.

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Stephen M. McNamee
United States District Judge