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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

KEITH ROSS,  Plaintiff,  v.  A. HEDGPETH,  Defendant.	CASE NO. 1:09-cv-00063-AWI-SKO PC  ORDER RELIEVING DEFENDANT OF OBLIGATION TO RESPOND TO PLAINTIFF'S COMPLAINT AND REQUIRING DEFENDANT TO FILE STATUS REPORT REGARDING SERVICE OF PROCESS STATUS  (Doc. 19)  FIVE-DAY STATUS REPORT DEADLINE
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Plaintiff Keith Ross, a state prisoner proceeding pro se and in forma pauperis, filed this civil action pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 2000cc-1 (Religious Land Use and Institutionalized Persons Act of 2000) on January 12, 2009. This action is proceeding against Defendant Hedgpeth for violation of the Free Exercise Clause of the First Amendment and RLUIPA.

On January 4, 2012, the Court directed the United States Marshal to initiate service of process on Defendant. To date, neither a waiver nor a notice of execution of personal service has been filed. Fed. R. Civ. P. 4(d); Doc. 17, Service Order. However, on May 3, 2012, Defendant filed on behalf of both parties a notice of settlement and a request that all scheduled matters be vacated. The parties anticipate filing their stipulation for voluntary dismissal once the state has passed a new budget and Plaintiff thereafter receives the agreed-upon settlement sum, which should be within one-hundred eighty days or within a reasonable time.

The parties' request to be relieved of any scheduled matters pending finalization of the settlement shall be granted. Fed. R. Civ. P. 12(a). However, the status of service cannot be left

1 unclear. If Defendant has waived service, he must return the waiver to the Marshal. Service Order,  
2 ¶5. If he fails to do so, the Marshal will automatically initiate personal service and seek  
3 reimbursement of costs. Id.

4 Accordingly, pursuant to the parties' notice of settlement and request for relief pending  
5 submission of their signed stipulation for voluntary dismissal, it is HEREBY ORDERED that:

- 6 1. Defendant is relieved of his obligation to file a response to Plaintiff's complaint; and
- 7 2. Defendant shall file a status report within **five (5) days** regarding the status of service  
8 by the United States Marshal.

9  
10 IT IS SO ORDERED.

11 **Dated:** May 4, 2012

12 /s/ Sheila K. Oberto  
13 UNITED STATES MAGISTRATE JUDGE