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

LUPE NIETO, JR.,)	Case No.: 1:10-cv-01397 AWI JLT
)	
Plaintiff,)	
)	ORDER TO UNITED STATES MARSHAL
v.)	FOR SERVICE OF FIRST AMENDED
)	COMPLAINT
)	
DRAKE HODGE, et al.,)	
)	
)	
Defendants.)	
_____)	

Lupe Nieto, Jr. ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this action. This Court ordered Plaintiff to provide information for service of process on Form U.S.M.-285, sufficient copies of the complaint for service and a notice of compliance. Plaintiff has filed the required papers. Therefore, good cause appearing, this Court:

1. DIRECTS this Court's clerk to forward to the U.S. Marshal:
 - a. The completed and issued summons for Drake Hodge;
 - b. The completed Form U.S.M.-285 for Drake Hodge;
 - c. One copy of the First Amended Complaint filed on November 17, 2010, for Drake Hodge to be served, plus an extra copy for the U.S. Marshal;
 - d. One copy of this order for Drake Hodge, plus an extra copy for the U.S.

1 Marshal; and

2 e. One copy of the Court's consent form Drake Hodge.

3 2. DIRECTS the U.S. Marshal, within 10 days from this order's date, to notify
4 defendant Drake Hodge of the commencement of this action and to request a
5 waiver of service in accordance with Federal Rule of Civil Procedure 4(d) and 28
6 U.S.C. § 566(c).

7 3. DIRECTS the U.S. Marshal to file returned waivers of service and a copy of the
8 complaint in its file for future use.

9 4. DIRECTS the U.S. Marshal that, if a waiver of service is not returned by a
10 defendant within 60 days of the date of mailing the request for waiver, to
11 personally serve process and a copy of this order on Defendant pursuant to Federal
12 Rule Civil Procedure 4 and 28 U.S.C. § 566(c);

13 5. DIRECTS the U.S. Marshal, within 10 days after personal service is
14 accomplished, to file the return of service for each defendant along with evidence
15 of attempts to secure waiver of service of process and costs subsequently incurred
16 to effect service of the defendant. Such costs shall be enumerated on the Form
17 U.S.M.-285 and shall include the costs incurred by the U.S. Marshal to make
18 additional photocopies of the summons and complaint and to prepare new Forms
19 U.S.M.-285, if needed. Costs of service will taxed against the defendant(s),
20 pursuant to Federal Rule of Civil Procedure 4(d)(2).

21 6. DIRECTS the U.S. Marshal not to serve the defendant if the defendant first
22 appears in this action by filing an answer, dispositive motion or other pleading.

23 IT IS SO ORDERED.

24 Dated: January 18, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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