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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAWN McCULLOUGH,

CASE NO. 1:10-cv-2295-AWI-MJS

Plaintiff,

ORDER DIRECTING SERVICE BY THE
UNITED STATES MARSHALS SERVICE
WITHOUT PREPAYMENT OF COSTS

v.

FRESNO POLICE DEPARTMENT, et al.,

Defendants.

The Court previously found service of the First Amended Complaint appropriate. Accordingly, pursuant to Federal Rule of Civil Procedure 4(c), it is HEREBY ORDERED that:

1. For each Defendant to be served, the Clerk of the Court is directed to forward the following documents to the United States Marshals Service:
 - (1) One completed and issued summons;
 - (2) One completed USM-285 form;
 - (3) One copy of the First Amended Complaint filed on May 2, 2011, plus an extra copy for the Marshals Service; and
 - (4) One copy of this order, plus an extra copy for the Marshals Service.
2. Within ten days from the date of this order, the Marshals Service is directed to notify the following Defendant of the commencement of this action and to

1 request a waiver of service in accordance with the provisions of Fed. R. Civ.
2 P. 4(d) and 28 U.S.C. § 566(c):

3 K. Yambupah

4 3. The Marshals Service shall file returned waivers of service as well as any
5 requests for waivers of service that are returned as undelivered as soon as
6 they are received.

7 4. If a waiver of service is not returned by Defendant within sixty days of the
8 date of mailing the request for waiver, the Marshals Service shall:

9 a. Personally serve process and a copy of this order upon the Defendant
10 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28
11 U.S.C. § 566(c).

12 b. Within ten days after personal service is effected, the Marshals
13 Service shall file the return of service for the Defendant, along with
14 evidence of any attempts to secure a waiver of service of process and
15 of the costs subsequently incurred in effecting service on said
16 defendant. Said costs shall be enumerated on the USM-285 form
17 and shall include the costs incurred by the Marshals Service for
18 photocopying additional copies of the summons and complaint and for
19 preparing new USM-285 forms, if required. Costs of service will be
20 taxed against the personally served Defendant in accordance with the
21 provisions of Fed. R. Civ. P. 4(d)(2).

22 5. **If Defendant waives service, he is required to return the signed waiver**
23 **to the Marshals Service. The filing of an answer or a responsive motion**
24 **does not relieve Defendant of this requirement, and the failure to return**
25 **the signed waivers may subject Defendant to an order to pay the costs**
26 **of service pursuant to Fed. R. Civ. P. 4(d)(2).**

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6. In the event that Defendant either waives service or is personally served, Defendant is required to reply to the First Amended Complaint. Fed. R. Civ. P. 12(a)(1).

IT IS SO ORDERED.

Dated: September 13, 2012

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE