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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11	LORENZO FOSSELMAN, JR.	)	Case No.: 1:12-cv-01302-AWI-SAB (PC)
12	Plaintiff,	)	
13	v.	)	ORDER REGARDING SERVICE OF PROCESS
14	MATTHEW CATE, et al.,	)	ON DEFENDANTS JOHNSON AND DIMMER
15	Defendants.	)	
16		)	

17 Plaintiff Lorenzo Fosselman, Jr. is appearing pro se in this civil rights action pursuant to 42  
18 U.S.C. § 1983.

19 On August 1, 2012, Defendants Cate and Heberle removed this action from the Sacramento  
20 County Superior Court.

21 On January 16, 2015, the Court ruled that this action shall proceed on Plaintiff's Eighth  
22 Amendment claim against Defendant Johnson and First Amendment retaliation claim against  
23 Defendant Dimmer, and all other claims and defendants were dismissed from the action with  
24 prejudice. (ECF No. 23.) In the paragraphs that follow, the Court will provide Plaintiff with  
25 instructions to initiate service of process on Defendants Johnson and Dimmer, as they have not yet  
26 been served or made an appearance in this action.

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1 **I.**

2 **DISCUSSION**

3 **A. Order Directing Plaintiff to Initiate Service of Process**

4 Plaintiff is not proceeding in forma pauperis and is therefore responsible for serving  
5 Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. Included with this  
6 order are the appropriate service forms and a copy of Rule 4. Unless good cause for an extension of  
7 time is shown, Plaintiff must complete service of process and file proof thereof with the Court within  
8 one-hundred twenty days. Fed. R. Civ. P. 4(m). The following two sections contain instructions on  
9 how to serve Defendants.

10 **B. Instructions on Completing Service**

11 **1. Waiver of Service**

12 Pursuant to Rule 4(d)(1), Plaintiff may, but is not required to, notify each Defendant of the  
13 commencement of this action and request that they waive service of the summons. Fed. R. Civ. P.  
14 4(d)(1). If Plaintiff wishes to do this, he must mail each Defendant (1) the form entitled "Notice of  
15 Lawsuit and Request for Waiver of Service for Summons," (2) the form entitled "Waiver of Service of  
16 Summons," and (3) a copy of the First Amended Complaint. The documents must be addressed  
17 directly to each Defendant (not the Attorney General's Office) and must be dispatched (mailed)  
18 through first-class mail. The Waiver of Service of Summons form must set forth the date on which the  
19 request is sent and must allow the Defendant at least thirty (30) days in which to return the waiver to  
20 Plaintiff. If Defendant signs and returns the waiver forms to Plaintiff, Plaintiff must then file the  
21 forms with the Court. After filing the forms with the Court, Plaintiff need not take any further steps to  
22 serve Defendants. Fed. R. Civ. P. 4(d)(4).

23 **2. Personal Service**

24 If either (1) Plaintiff does not wish to request Defendants to waive service or (2) the  
25 Defendants fails to return the Waiver of Service of Summons form to Plaintiff, Plaintiff must  
26 have personal service effected on Defendants. Defendants must be personally served with a summons  
27 and a copy of the First Amended Complaint, along with a copy of this order. Plaintiff may not effect  
28 personal service himself. Fed. R. Civ. P. 4(c). Service may be effected by any person who is not a

1 party to this action and who is at least eighteen years old. Id. The Court will provide Plaintiff with a  
2 copy of Rule 4 along with this order. Plaintiff should review Rule 4(e), which addresses how personal  
3 service may be effected.

4 **II.**

5 **ORDER**

6 In accordance with the above, IT IS HEREBY ORDERED that:

- 7 1. The Clerk of the Court is directed to issue and send Plaintiff two (2)  
8 summonses;
- 9 2. The Clerk is further directed to send Plaintiff:
- 10 a) One copy of the First Amended Complaint filed November 18, 2013;
- 11 b) One copy of the form entitled "Notice of Lawsuit and Request for  
12 Waiver of Service of Summons;"
- 13 c) One copy of the form entitled "Waiver of Service;"
- 14 d) One copy of Rule 4 of the Federal Rules of Civil Procedure;
- 15 3. Unless good cause is shown, Plaintiff shall complete service of process on Defendants  
16 within **one-hundred twenty (120) days** from the date of service of this order; and
- 17 4. Plaintiff's failure to timely complete service of the First Amended Complaint on  
18 Defendants will result in dismissal of this action.
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23 IT IS SO ORDERED.

24 Dated: **January 20, 2015**



25 UNITED STATES MAGISTRATE JUDGE