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

7 JAMES MILLNER,
8
9 Plaintiff,
10 v.
11 DR. WOODS, et al.,
12 Defendants.

Case No. 1:16-cv-01209-SAB-PC

ORDER REQUIRING PLAINTIFF TO
SERVE COMPLAINT ON DEFENDANTS
WITHIN NINETY DAYS

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14 **I. Order Directing Plaintiff to Initiate Service of Process**

15 Plaintiff James Millner is proceeding pro se in this civil action filed on August 15, 2016.
16 The Court screened Plaintiff's amended complaint and found that it states a claim for relief
17 against Defendants Woods and Hashem for deliberate indifference in violation of the Eighth
18 Amendment. 28 U.S.C. § 1915A.

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

25 **II. Instructions on Completing Service**

26 A. Waiver of Service

27 Plaintiff has the option of notifying Defendants of the commencement of this action and
28 requesting that they waive service of the summons. Fed. R. Civ. P. 4(d)(1). If Plaintiff wishes to

1 do this, he must mail each defendant (1) the form entitled “Notice of Lawsuit and Request for
2 Waiver of Service for Summons,” (2) two (2) copies of the form entitled “Waiver of Service of
3 Summons,” (3) a copy of the amended complaint, (4) prepaid means for returning the form; and
4 (5) a copy of this order. The documents must be addressed directly to each defendant (not the
5 Attorney General’s Office or any other governmental entity), and the documents must be sent by
6 first-class mail or other reliable means. Id. The Waiver of Service of Summons form must set
7 forth the date on which the request is sent and must allow each defendant at least thirty days to
8 return the waiver to Plaintiff. If Defendants sign and return the waiver forms to Plaintiff,
9 Plaintiff must then file the forms with the Court. After filing the forms with the Court, Plaintiff
10 does not need to do anything further to serve Defendants. Fed. R. Civ. P. 4(d)(4).

11 B. Personal Service

12 Plaintiff must effect personal service on any defendants whom Plaintiff does not request
13 to waive service and on any defendants who are requested to waive service but fail to return the
14 Waiver of Service of Summons form to Plaintiff. In either situation, the summons, a copy of the
15 amended complaint, and a copy of this order must be personally served on each defendant (not
16 the Attorney General’s Office or any other governmental entity). **Plaintiff may not effect**
17 **personal service himself.** Fed. R. Civ. P. 4(c)(2). Service may be effected by any person who
18 is not a party to this action and who is at least eighteen years old. Id. Plaintiff should review
19 Rule 4(e), provided with this order, as it more fully addresses how personal service is effected.

20 **III. Order**

21 In accordance with the above, it is HEREBY ORDERED that:

- 22 1. The Clerk of the Court shall issue and send Plaintiff two summonses, and shall
23 send Plaintiff the following documents:
- 24 a) Two copies of the amended complaint filed on October 24, 2016;
 - 25 b) Two Copies of the “Notice of Lawsuit and Request for Waiver of Service of
26 Summons;”
 - 27 c) Four copies of “Waiver of Service of Summons;” and
 - 28 d) One copy of the Rule 4 of the Federal Rules of Civil Procedure;

