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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 JAMES MILLNER,

9 Plaintiff,

10 v.

11 DR. WOODS, et al.,

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

ORDER REGARDING PLAINTIFF'S
MOTIONS TO HAVE THE U.S. MARSHAL
SERVE DEFENDANTS WOODS AND
HASHEEM

(ECF No. 11, 12)

15 Plaintiff James Millner is proceeding pro se in this civil action filed on August 15, 2016.

16 Currently before the Court are Plaintiff's motions to have the U.S. Marshal serve
17 Defendants Woods and Hashem, filed on August 21, 2017. (ECF Nos. 11, 12.) Plaintiff explains
18 that he has attempted to comply with the Court's order requiring him to attempt service of
19 process on Defendants by requesting service through the Kern County Sheriff's office, with no
20 success. Plaintiff has submitted a document from the Kern County Sheriff's Office stating "the
21 Kern Co. Sheriff's Office does not serve or execute federal process. Please contact the US
22 Marshal's Office for information on this service."

23 Plaintiff further states that despite his attempts, he cannot complete service within the
24 time required under Federal Rule of Civil Procedure Rule 4(m). Plaintiff has also returned to the
25 Clerk of the Court the completed summons forms, copies of the conformed amended complaint
26 filed on October 24, 2016, and the Notice of Lawsuit and Waiver of Service of Summons forms.

27 Plaintiff, who is not proceeding in forma pauperis in this matter, is responsible for
28 effecting service of process in compliance with the Federal Rules of Civil Procedure.

1 Nevertheless, he is proceeding pro se and is currently incarcerated, and appears to have
2 exhausted the avenues available to him to effect service of process on his own. Rule 4(c)(3)
3 provides that “[a]t the plaintiff’s request, the court may order that service be made by a United
4 States marshal or deputy marshal or by a person specially appointed by the court.”

5 Under these circumstances, the Court finds good cause to extend the time for Plaintiff to
6 serve Defendants under Rule 4(m). The Court further finds good cause to grant Plaintiff’s
7 request for service of process by the Marshal under Rule 4(c)(3), without prepayment of costs.¹

8 Accordingly, it is HEREBY ORDERED that:

9 1. Plaintiff’s motions to have the U.S. Marshal effect service of process on
10 Defendants Woods and Hashem, (ECF Nos. 11, 12), are GRANTED;

11 2. A separate order directing service by the U.S. Marshal service without
12 prepayment of costs pursuant to Federal Rule of Civil Procedure 4(c) shall issue concurrently
13 with this order; and

14 3. The Clerk of the Court is directed to provide a copy of this order to the U.S.
15 Marshal to assist with service of process.

16 IT IS SO ORDERED.

17 Dated: August 23, 2017

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19 _____
20 UNITED STATES MAGISTRATE JUDGE

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22 ¹ Plaintiff also explains in his motions that he understands Dr. Woods to be currently working at
23 Kern Valley State Prison, at Facility “C”, as a dentist. (ECF No. 11, p. 2.) Plaintiff further
24 explains that he has information that Dr. Hashem may no longer be employed at Kern Valley
25 State Prison. (ECF No. 12, pp. 1, 22.)

26 The U.S. Marshal is directed to use this information to assist in effectuating service. To
27 the extent that the Marshal is unable to effect service on either Dr. Woods or Dr. Hashem at Kern
28 Valley State Prison due to a separation from employment, the Marshal is directed to request a
forwarding address in a confidential memorandum. Any confidential forwarding address shall
not appear on any U.S. Marshal Form 285, and shall not be made a part of the Court’s public
record.