

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAMON NEWQUIST,

 Plaintiff,

 v.

SOA, et al.,

 Defendants.

Case No. 1:17-cv-01150-LJO-SKO (PC)

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

Plaintiff, Damon Newquist, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding on his First Amended Complaint against Defendants Chen and Soa for deliberate indifference to his serious medical needs in violation of the Eighth Amendment. (*See* Docs. 21, 22.) The United States Marshals Service returned an unexecuted summons as to Defendant Soa. (Doc. 25.) Plaintiff has provided a Medication Reconciliation Record to assist with the identification of Defendant Soa for service of process. (Doc. 27.)

Accordingly, pursuant to Federal Rule of Civil Procedure 4(c):

1. The Clerk of the Court is directed to forward a copy of the documents Plaintiff filed on May 3, 2019 (Doc. 27) to the United States Marshals Service.
2. Within ten days from the date of this order, the Marshals Service is directed to notify **DEFENDANT SOA** of the commencement of this action and to request a waiver of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The Marshals Service shall file the returned waiver of service, or the request for waiver of service if returned as undelivered, once received.
4. The Marshals Service shall command all necessary assistance from the Litigation Coordinator at Kern Valley State Prison to identify and locate **DEFENDANT SOA** for service.
5. If a waiver of service is not returned by Defendant within sixty days of the date of mailing the request for waiver, the Marshals Service shall:
 - (a) Personally serve process and a copy of this order upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 556(c), and shall command all necessary assistance from the California Department of Corrections and Rehabilitation (CDCR) to execute this order.
 - (b) The Marshalls Service shall contact the Legal Affairs Division of CDCR and request the assistance of a Special Investigator if the Litigation Officer at the institution is unable to assist in identifying and/or locating **DEFENDANT SOA**.
 - (c) Within ten days after personal service is effected, the Marshalls Service shall file the return of service for the defendant, along with evidence of any attempts to secure a waiver of service of process and of the costs subsequently incurred in effecting service on said defendant. Said costs shall be enumerated on the USM-285 form and shall include the costs incurred by the Marshalls Service for photocopying additional copies of the summons and Second Amended Complaint and for preparing new USM-285 forms if required. Costs of service will be taxed against the personally served defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).
6. In the event that Defendant either waives service or is personally served,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendant is required to reply to the First Amended Complaint, 42 U.S.C. §
1997e(g)(2), or respond to the Order Referring the Case to Post-Screening ADR
Project, (Doc. 29).

IT IS SO ORDERED.

Dated: May 14, 2019

/s/ Sheila K. Olerto
UNITED STATES MAGISTRATE JUDGE