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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JOSEPH ELLIS

11 Plaintiff,

No. CIV S-07-2301 JAM KJM P

12 vs.

13 ARNOLD SCHWARZENEGGER, et al

14 Defendant.

ORDER

15 _____/
16 Plaintiff is a prisoner proceeding with an action pursuant to 42 U.S.C. § 1983.
17 Plaintiff has filed an ex parte motion to include an exhibit (docket no. 22) that he states should
18 have been included with the second amended complaint that was ordered served on defendants
19 by the court on January 13, 2009 (docket no. 16). Plaintiff previously submitted the exhibit in an
20 application to the court on December 15, 2008 (docket no. 15). The court will grant the motion
21 and deem that the exhibit attached to the application of December 15, 2008, is an exhibit to the
22 second amended complaint that has been served on both defendants.

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Accordingly, IT IS HEREBY ORDERED that:

1. The motion to include the exhibit submitted by the plaintiff at docket number 15 of this cause is granted (docket number 22). The exhibit at docket number 15 is deemed to have been filed as an exhibit to the second amended complaint that was filed May 27, 2008, nunc pro tunc.

2. Defendants shall have thirty days from this order to file any modification to their pending motion to dismiss they wish to make based on this order.

3. Plaintiff shall have sixty days from this order in which to file his opposition to the motion to dismiss (resolving docket no. 28).

DATED: July 30, 2009.


U.S. MAGISTRATE JUDGE

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