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

NICHOLAS W. UTTER,

Plaintiff,

No. 2:08-cv-0734-GEB-JFM (PC)

vs.

ARNOLD SCHWARZENEGGER,
et al.,

Defendants.

ORDER

Plaintiff has filed a document entitled "Notice of Common Law Motion for Leave; I Move for Leave to Supplement the Service on the Defendants with Request for Admission, Production, & Interrogatories." The court construes this as a motion for court-ordered service of discovery requests that plaintiff seeks to propound on defendants.

Plaintiff's motion was filed on July 27, 2009, the same day that defendants filed a motion to dismiss, and ten days after defendants appeared in the action by filing a motion for an extension of time to file a response to plaintiff's complaint. Plaintiff is informed that court permission is not necessary for discovery requests and that neither discovery requests served on an opposing party nor that party's responses should be filed until such time as a party becomes dissatisfied with a response and seeks relief from the court pursuant to the Federal Rules of Civil

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1 Procedure. Discovery requests between the parties shall not be filed with the court unless, and
2 until, they are at issue.

3 Plaintiff did not serve either his motion or the attached discovery requests on
4 defendants. Plaintiff is advised that every document submitted to the court for consideration
5 must be served on defendants. Rule 5, Federal Rules of Civil Procedure. Documents are usually
6 served by placing a copy in the U.S. Mail. If an attorney has filed a document with the court on
7 behalf of any defendant, then documents submitted by plaintiff must be served on that attorney
8 and not on the defendant himself. Every document submitted to the court must include a
9 certificate stating the date that an accurate copy of the document was mailed to defendants or
10 their attorney and the address to which it was mailed. See Local Rule 5-135(a), E.D. Cal. The
11 clerk of the court cannot serve any document for any party.

12 Accordingly, IT IS HEREBY ORDERED that plaintiff's July 27, 2009 motion is
13 construed as a request for court-ordered service of discovery requests on defendants and, so
14 construed, is denied without prejudice to plaintiff's right to seek discovery from defendants in
15 accordance with the Federal Rules of Civil Procedure.

16 DATED: September 1, 2009.

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19 UNITED STATES MAGISTRATE JUDGE

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