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

WILLIAM BARKER,

Plaintiff,

No. CIV S-08-1160 WBS KJM P

vs.

J. FOSTER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with an action filed pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act. By order filed September 30, 2009, the court determined that plaintiff’s amended complaint states a cognizable claim for relief against defendants Foster, Kett, Swagger, Bridges, Renetti, Biggs, Mizzen and Reyes. The court also ordered plaintiff to file an application to proceed in forma pauperis; however, that order was in error. This action was removed to this court by defendant Foster under 28 U.S.C. 1441(b), and Foster has paid the filing fee of \$350.00.¹ Therefore plaintiff need not meet the in forma pauperis requirements of 28 U.S.C. § 1915 in order to proceed with his claims.

¹ Because defendant Foster must have been served with the original complaint filed in state court and is already a party to this case, he need not be re-served with the amended complaint.

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Service is appropriate for the following defendants: Kett, Swagger, Bridges,
3 Renetti, Biggs, Mizzen and Reyes.

4 2. The Clerk of the Court shall send plaintiff seven USM-285 forms, one
5 summons, an instruction sheet and a copy of the amended complaint filed February 6, 2009.

6 3. Within thirty days from the date of this order, plaintiff shall complete the
7 attached Notice of Submission of Documents and submit the following documents to the court:

8 a. The completed Notice of Submission of Documents;

9 b. One completed summons;

10 c. One completed USM-285 form for each defendant listed in number 1
11 above; and

12 d. Eight copies of the endorsed amended complaint filed February 6,
13 2009.

14 4. Plaintiff need not attempt service on defendants and need not request waiver of
15 service. Upon receipt of the above-described documents, the court will direct the United States
16 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
17 without payment of costs.

18 5. The motion to proceed in forma pauperis (docket no. 20) is denied as moot.

19 DATED: October 29, 2009.

20
21 
22 U.S. MAGISTRATE JUDGE

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

WILLIAM BARKER,

Plaintiff,

No. CIV S-08-1160 WBS KJM P

vs.

J. FOSTER, et al.,

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

- _____ completed summons form
- _____ completed USM-285 forms
- _____ copies of the _____
Amended Complaint

DATED:

Plaintiff