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

10 ALBERT POON,

11 Plaintiff,

No. 2:08-cv-02248-SRT

12 vs.

13 JOHN CLARK KELSO, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant
17 to 42 U.S.C. § 1983 and has filed an application to proceed in forma pauperis under 28 U.S.C.
18 § 1915. Plaintiff has submitted an in forma pauperis application that makes the showing required
19 by 28 U.S.C. § 1915(a). Accordingly, plaintiff will be granted leave to proceed in forma pauperis.

20 Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. See
21 28 U.S.C. § 1914(a) & 1915(b)(1). Plaintiff has been without funds for six months and is
22 currently without funds. Accordingly, the court will not assess an initial partial filing fee. *See* 28
23 U.S.C. § 1915(b)(1). Plaintiff will be obligated to make monthly payments of twenty percent of
24 the preceding month's income credited to plaintiff's prison trust account. These payments will be
25 collected and forwarded by the appropriate agency to the Clerk of the Court each time the
26 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. *See* 28 U.S.C. §

1 1915(b)(2).

2 Plaintiff's complaint states a cognizable claim for relief pursuant to 42 U.S.C.
3 § 1983 and 28 U.S.C. § 1915A(b). A "prisoner[]" can establish an eighth amendment violation
4 with respect to medical care if [he] can prove there has been a deliberate indifference to [his]
5 serious medical needs." *Hunt v. Dental Dept.*, 865 F.2d 198, 200 (9th Cir. 1989). Additionally,
6 the Ninth Circuit has recognized that "[d]ental care is one of the most important medical needs of
7 inmates." *Id.* (quoting *Ramos v. Lamm*, 639 F.2d 559, 576 (10th Cir. 1980)). Accordingly,
8 Poon's complaint contains an arguable basis in law and fact, and if the allegations are proven,
9 plaintiff has a reasonable opportunity to prevail on the merits of his claim.

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

12 1. Plaintiff's August 21, 2008 application to proceed in forma pauperis is granted.

13 2. Service is appropriate for the following defendants: John Clark Kelso, Robert
14 Sillen, Dr. G. Cheung, Dr. McIntyre, Dr. Park-Lin, Dr. Alvaro C. Traquina, Dr. Win, Dr. Basi,
15 Maria L. Vasquez, M. Lemus, C. Arthur, V. Singh, D.K. Sisto, Capt. R. Pennington, N. Grannis,
16 and James Tilton.

17 3. The Clerk of the Court shall send plaintiff 17 USM-285 forms, one summons,
18 an instruction sheet and a copy of the complaint filed September 16, 2008.

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

- 21 a. The completed Notice of Submission of Documents;
22 b. One completed summons;
23 c. One completed USM-285 form for each defendant listed in number 2
24 above; and
25 d. 17 copies of the complaint filed September 16, 2008.

26 5. Plaintiff need not attempt service on defendants and need not request waiver of

1 service. Upon receipt of the above-described documents, the court will direct the United States
2 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
3 without payment of costs.

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5 IT IS SO ORDERED.

6 DATED: April 3, 2009

/s/ Sidney R. Thomas

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Sidney R. Thomas, United States Circuit Judge
9 Sitting by Designation
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ALBERT POON,

Plaintiff,

No. 2:08-cv-02248-SRT

vs.

JOHN CLARK KELSO, 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 Complaint

DATED:

Plaintiff