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

DANIEL PORTUGAL,

Plaintiff,

No. CIV S-08-2472 GGH P

vs.

T. FELKER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed May 15, 2009, some of plaintiff's claims against certain of the defendants, as well as some defendants, in the first amended complaint were dismissed with leave to file a second amended complaint. Plaintiff has filed a second amended complaint.

The second amended complaint states a cognizable claim for relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b) with regard to plaintiff's claims regarding the opening of his legal or privileged mail outside his presence.¹ If the allegations of the amended complaint

¹ The court notes that plaintiff omitted reference to defendant S.L. Chapman in the second amended complaint although the court had found plaintiff's claims concerning his mail against this individual also colorable within the now-superseded first amended complaint.

1 are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

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

3 1. Service is appropriate for the following defendants: T. Felker, P. Statti.

4 2. The Clerk of the Court shall send plaintiff two (2) USM-285 forms, one
5 summons, an instruction sheet and a copy of the second amended complaint filed June 12, 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. Three (3) copies of the endorsed amended complaint filed on June 12,
13 2009 (docket # 13).

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 DATED: October 13, 2009

19 /s/ Gregory G.Hollows

20 UNITED STATES MAGISTRATE JUDGE
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL PORTUGAL,

Plaintiff,

No. CIV S-08-2472 GGH P

vs.

T. FELKER, et al.,

Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

_____ /

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

1 completed summons form

2 completed USM-285 forms

3 copies of the June 12, 2009 (docket # 13)
Second Amended Complaint

DATED:

Plaintiff