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

BRIAN JOSEPH STOLTIE,

Plaintiff,

No. CIV S-08-2584 GEB DAD P

vs.

JANETTA GERGINGSON, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. In accordance with the court’s May 18, 2009 order, plaintiff has filed an application to proceed in forma pauperis under 28 U.S.C. § 1915. This proceeding was referred to the undersigned magistrate judge in accordance with Local Rule 72-302 and 28 U.S.C. § 636(b)(1).

Plaintiff has submitted an in forma pauperis application that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, plaintiff will be granted leave to proceed in forma pauperis.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. See 28 U.S.C. §§ 1914(a) & 1915(b)(1). An initial partial filing fee of \$7.83 will be assessed by this order. See 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate

1 agency to collect the initial partial filing fee from plaintiff's prison trust account and forward it to
2 the Clerk of the Court. Thereafter, plaintiff will be obligated to make monthly payments of
3 twenty percent of the preceding month's income credited to plaintiff's prison trust account.
4 These payments will be collected and forwarded by the appropriate agency to the Clerk of the
5 Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in
6 full. See 28 U.S.C. § 1915(b)(2).

7 Plaintiff's complaint appears to state cognizable claims for relief pursuant to 42
8 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the complaint are proven, plaintiff
9 has a reasonable opportunity to prevail on the merits of this action.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Plaintiff's May 29, 2009 motion to proceed in forma pauperis (Doc. No. 19) is
12 granted.

13 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.
14 Plaintiff is assessed an initial partial filing fee of \$7.83. All fees shall be collected and paid in
15 accordance with this court's order to the Director of the California Department of Corrections
16 and Rehabilitation filed concurrently herewith.

17 3. Service of the complaint is appropriate for the following defendants:
18 Geringson, Lipon, and Ziga.

19 4. The Clerk of the Court shall send plaintiff 3 USM-285 forms, one summons,
20 an instruction sheet, and a copy of the complaint filed October 30, 2008.

21 5. Within thirty days from the date of this order, plaintiff shall complete the
22 attached Notice of Submission of Documents and submit all of the following documents to the
23 court at the same time:

- 24 a. The completed, signed Notice of Submission of Documents;
- 25 b. One completed summons;

26 ////

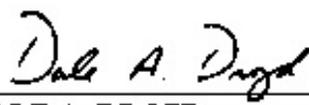
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c. One completed USM-285 form for each defendant listed in number 3 above; and

d. Four copies of the endorsed complaint filed October 30, 2008.

6. Plaintiff shall not attempt to effect service of the complaint on defendants or request a waiver of service of summons from any defendant. Upon receipt of the above-described documents, the court will direct the United States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

DATED: July 14, 2009.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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

BRIAN JOSEPH STOLTIE,

Plaintiff,

No. CIV S-08-2584 GEB DAD P

vs.

JANETTA GERINGSON, et al.,

NOTICE OF SUBMISSION

Defendants.

OF DOCUMENTS

_____ /

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

_____ one completed summons form;

_____ three completed USM-285 forms; and

_____ four true and exact copies of the complaint filed October 30, 2008.

DATED: _____.

Plaintiff