

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

CURTIS R. KIMES,

Plaintiff,

No. CIV S-09-0853 GEB DAD PS

VS.

ERIK K. SHINSEKI, Secretary,
U.S. Department of Veteran Affairs,

**ORDER SETTING STATUS
(PRETRIAL SCHEDULING)
CONFERENCE**

Defendant.

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This action has been assigned to United States District Judge Garland E. Burrell, who referred to United States Magistrate Judge Dale A. Drozd pursuant to Local Rule 16 for all purposes encompassed by that provision.¹ The matter came before the court (trial scheduling) conference on July 31, 2009. Plaintiff Curtis Kimes, proceeding pro se on his own behalf. No appearance was made on behalf of defendant. At the conference the court expressed concern that plaintiff had not properly carried out service of defendant in accordance with the Federal Rules of Civil Procedure. The court

¹ Plaintiff has been informed that, if all parties consent, the assigned Magistrate Judge is available to conduct all proceedings in this case. A consent form has been provided to plaintiff. A party choosing to consent may complete a consent form and return it to the Clerk of the Court at any time. Neither the magistrate judge nor the district judge handling the case will be notified of the filing of a consent form, unless all parties have filed consent forms.

1 advised plaintiff in this regard, continued the status conference and directed plaintiff to serve this
2 order upon defendant once the summons and complaint was properly served.

3 Pursuant to the provisions of Rule 16 of the Federal Rules of Civil Procedure, IT
4 IS ORDERED that:

5 1. A Status (Pretrial Scheduling) Conference is now set for **Friday, December 4,**
6 **2009, at 11:00 a.m.**, in Courtroom No. 27, before Magistrate Judge Drozd.

7 2. Rule 4(m) of the Federal Rules of Civil Procedure provides that an action may
8 be dismissed against any defendant on whom service of process has not been completed
9 within 120 days from the date the complaint was filed. In order to ensure compliance with the
10 120-day time limits specified in Rules 4(m) and 16(b), plaintiff is strongly encouraged to
11 complete service of process on the defendant within 90 days of the date of filing his
12 complaint.

13 3. Concurrently with service of process on the defendant, or as soon thereafter as
14 possible, plaintiff shall serve upon the defendant and UPON ALL PARTIES SUBSEQUENTLY
15 JOINED, INCLUDING IMPLEADED THIRD-PARTY DEFENDANTS, a copy of this order,
16 and plaintiff shall promptly file with the Clerk of the Court a certificate reflecting such service.

17 4. Plaintiff shall also serve on the defendant a copy of the Notice of Availability
18 of Magistrate Judge and a copy of the consent form issued by the Clerk of the Court on March
19 27, 2009.

20 5. Each party shall appear at the Status Conference by counsel or, if proceeding in
21 propria persona, on his own behalf. Parties may choose to appear at the status conference in
22 person or telephonically. To arrange telephonic appearance, the party shall contact Pete Buzo,
23 the courtroom deputy of the undersigned magistrate judge, at (916) 930-4128, no later than 48
24 hours before the Status (Pretrial Scheduling) Conference.

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1 6. Plaintiff shall file and serve a status report on or before **November 20, 2009**,
2 and the defendant shall file and serve a status report on or before **November 30, 2009**. Each
3 status report shall address all of the following matters:

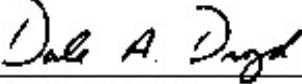
- 4 a. Progress of service of process;
- 5 b. Possible joinder of additional parties;
- 6 c. Any expected or desired amendment of the
7 pleadings;
- 8 d. Jurisdiction and venue;
- 9 e. Anticipated motions and the scheduling thereof;
- 10 f. Anticipated discovery and the scheduling thereof,
11 including disclosure of expert witnesses;
- 12 g. Future proceedings, including the setting of
13 appropriate cut-off dates for discovery and for law
14 and motion, and the scheduling of a final pretrial
15 conference and trial;
- 16 h. Modification of standard pretrial procedures
17 specified by the rules due to the relative simplicity
18 or complexity of the action;
- 19 i. Whether the case is related to any other case,
20 including matters in bankruptcy;
- 21 j. Whether the parties will stipulate to the assigned
22 magistrate judge acting as settlement judge, waiving
23 any disqualification by virtue of his so acting, or
24 whether they prefer to have a Settlement Conference
25 before another magistrate judge;
- 26 k. Whether the parties intend to consent to proceed
27 before a United States Magistrate Judge; and
- 28 l. Any other matters that may aid in the just and
29 expeditious disposition of this action.

30 7. The pro se plaintiff is cautioned that failure to file a timely status report or
31 failure to appear at the status conference either in person or telephonically may result in a
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1 recommendation that this case be dismissed for lack of prosecution and as a sanction for failure
2 to comply with court orders and applicable rules. See Local Rules 11-110 and 83-183.

3 DATED: September 11, 2009.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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