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

RUSSELL BERNARDINI,

Plaintiff,

No. CIV S-09-1134 FCD GGH PS

vs.

JAMES WALKER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner who is proceeding pro se and in forma pauperis.

Plaintiff seeks relief pursuant to 42 U.S.C. § 1983.

By order filed May 29, 2009, the court determined that plaintiff had stated a colorable claim against defendant Callahan. The court also dismissed plaintiff's claims against defendants Cate, Schwarzenegger, and Walker with thirty days leave to amend. Despite receiving an extension of time, plaintiff has not filed an amended complaint. Therefore, the action will proceed on the original complaint only, which states a colorable claim against defendant Callahan only pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915(d).

Defendants Cate, Schwarzenegger, and Walker will be dismissed by separate findings and recommendations.

Accordingly, IT IS HEREBY ORDERED that:

1 1. Service is appropriate for the following defendant: Callahan.

2 2. The Clerk of the Court is directed to send to plaintiff one USM-285 form, one
3 summons, an instruction sheet and a copy of the complaint filed April 24, 2009;

4 3. Within twenty-eight days from the date of this order, plaintiff shall complete
5 and submit the attached Notice of Submission of Documents to the court, with the following
6 documents:

7 a. One completed summons;

8 b. One completed USM-285 form for each defendant listed in number 1
9 above; and

10 c. Two copies of the endorsed complaint filed April 24, 2009; and

11 4. Plaintiff shall not attempt service on defendants and shall not request waiver of
12 service. Upon receipt of the above-described documents, the court will direct the United States
13 Marshal to serve all process on the above-named defendants pursuant to Federal Rule of Civil
14 Procedure 4 without prepayment of costs.

15 DATED: November 16, 2009

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17 /s/ Gregory G. Hollows

18 _____
19 GREGORY G. HOLLOWES
20 UNITED STATES MAGISTRATE JUDGE
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RUSSELL BERNARDINI,

Plaintiff,

No. CIV S-09-1134 FCD GGH PS

vs.

JAMES WALKER, et al.,

Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

_____/

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

One completed summons

1 completed USM-285 forms

2 copies of the _____
Complaint/Amended Complaint

DATED:

Plaintiff