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

O.D. PHILIPS,

Plaintiff,

No. 2:09-cv-01535 GEB KJN PS

v.

ORDER

UNITED STATES OF AMERICA,

Defendant.

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The court held a status conference in this matter on April 22, 2010. Plaintiff appeared without counsel and on his own behalf, with assistance from his daughter, Joy Philips, who is not a party in this case. Assistant United States Attorney Earlene Gordon appeared on behalf of defendant.

The status conference was originally set to address the status of plaintiff's continued efforts to serve defendant with process. However, defendant filed and served an answer to the complaint shortly before the status conference. (Dkt. No. 14.) The undersigned makes no findings as to the propriety of service, but finds that it would be prudent for the parties to file a joint status report with the court to ascertain the status of the case.

In addition, plaintiff orally requested that defendant's answer be stricken as untimely. The court denied plaintiff's request without prejudice and stated that plaintiff may file

1 a properly noticed motion to strike defendant's answer as untimely filed. Should plaintiff  
2 determine that he has a good faith basis for filing such a motion and wishes to file such a motion,  
3 he is directed to review the Federal Rules of Civil Procedure and this court's Local Rules  
4 regarding the proper filing of noticed motions, including motions to strike.

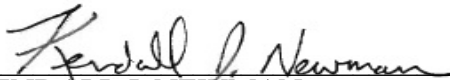
5 Based on the foregoing, IT IS HEREBY ORDERED that:

6 1. Within 30 days of the service of this order, plaintiff and defendant shall  
7 file a joint status as outlined in the Order Setting Status Conference previously entered in this  
8 case (Dkt. No. 3). If the parties are unable to file a joint status report, plaintiff and defendant  
9 may each file separate status reports, but must explain in their separate submissions why the  
10 parties were unable to file a joint status report.

11 2. The court will set a status (pretrial scheduling) conference after receipt of  
12 the parties' joint status report or respective status reports.

13 IT IS SO ORDERED.

14 DATED: April 22, 2010

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18 KENDALL J. NEWMAN  
19 UNITED STATES MAGISTRATE JUDGE  
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