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

DEE THOMAS MURPHY,

Plaintiff,

No. CIV S-09-2587 JAM DAD PS

vs.

ARNOLD SCHWARZENEGGER,

Defendant.

ORDER SETTING STATUS
(PRETRIAL SCHEDULING)
CONFERENCE

_____ /

This action has been assigned to United States District Judge John A. Mendez and has been referred to the undersigned United States Magistrate Judge pursuant to Local Rule 72-302(c)(21) for all purposes encompassed by that provision.¹

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

1. A Status (Pretrial Scheduling) Conference is set for **Friday, January 29, 2010, at 11:00 a.m.**, in Courtroom No. 27, before Magistrate Judge Drozd.

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

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

11 4. Plaintiff shall also serve on the defendant a copy of the Notice of Availability
12 of Magistrate Judge and a copy of the consent form issued by the Clerk of the Court on
13 September 16, 2009.

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

19 6. Plaintiff shall file and serve a status report on or before **January 15, 2009**, and
20 the defendant shall file and serve a status report on or before **January 22, 2009**. Each status
21 report shall address all of the following matters:

- 22 a. Progress of service of process;
- 23 b. Possible joinder of additional parties;
- 24 c. Any expected or desired amendment of the
25 pleadings;
- 26 d. Jurisdiction and venue;

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

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

26 DATED: October 6, 2009.

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22 _____
23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

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