

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

DAVID BRIAN SCANLON,

Plaintiff, No. CIV S-09-2808 KJM P

VS.

D.K. SISTO, et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1993 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. The proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 1915(d).

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

22 Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28  
23 U.S.C. § 1914(a), 1915(b)(1). Plaintiff has been without funds for six months and is currently  
24 without funds. Accordingly, the court will not assess an initial partial filing fee. 28 U.S.C.  
25 § 1915(b)(1). Plaintiff is obligated to make monthly payments of twenty percent of the  
26 preceding month's income credited to plaintiff's prison trust account. These payments shall be

1 collected and forwarded by the appropriate agency to the Clerk of the Court each time the  
2 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
3 § 1915(b)(2).

4 The complaint states a cognizable claim for relief pursuant to 42 U.S.C. § 1983  
5 and 28 U.S.C. § 1915A(b). If the allegations of the complaint are proven, plaintiff has a  
6 reasonable opportunity to prevail on the merits of this action.

7 In accordance with the above, IT IS HEREBY ORDERED that:

8 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

9 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.

10 The fee shall be collected and paid in accordance with this court's order to the Director of the  
11 California Department of Corrections and Rehabilitation filed concurrently herewith.

12 3. Service is appropriate for the following defendants: Sisto, Wong, Scavetta,  
13 Sandy as to the first, second and sixth causes of action, Picco, Singh, Fox and Flores as to the  
14 second and sixth causes of action.

15 4. The Clerk of the Court shall send plaintiff eight USM-285 forms, one  
16 summons, an instruction sheet and a copy of the complaint filed October 8, 2009.

17 5. Within thirty days from the date of this order, plaintiff shall complete the  
18 attached Notice of Submission of Documents and submit the following documents to the court:

19 a. The completed Notice of Submission of Documents;  
20 b. One completed summons;  
21 c. One completed USM-285 form for each defendant listed in number 3  
22 above; and  
23 d. Nine copies of the endorsed complaint filed October 8, 2009.

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6. Plaintiff need not attempt service on defendants and need not request waiver of service. 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: April 27, 2010.

U.S. MAGISTRATE JUDGE

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DAVID BRIAN SCANLON,

Plaintiff,

No. CIV S-09-2808 KJM P

VS.

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**NOTICE OF SUBMISSION**

## Defendants.

## OF DOCUMENTS

Plaintiff hereby submits the following documents in compliance with the court's  
request:

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### completed summons form

\_\_\_\_\_ completed USM-285 forms

\_\_\_\_ copies of the Complaint/Amended Complaint

DATED:

Plaintiff