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

DOLYN KEITH BARROW,

Plaintiff,

No. 2:10-cv-0698 KJN

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

ORDER

Defendant.

_____ /

This court, after examining plaintiff's Application to Proceed Without Prepayment of Fees and Affidavit, hereby grants plaintiff's motion to proceed with this social security action in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1). Based on this determination, the United States Marshal is directed to serve all process without prepayment of costs not later than ninety days from the date of this order.

Plaintiff should note that the determination that plaintiff may proceed in forma pauperis does not necessarily complete the threshold inquiry permitted by the district court. The court may also, pursuant to 28 U.S.C. § 1915(e)(2), determine that the action is lacking in legal substance and, therefore, frivolous or malicious. As the record in this action now stands, however, this determination cannot be made. The court therefore retains its ability to render this

1 determination when the record is sufficiently developed to support the permitted inquiry.

2 Good cause appearing, IT IS ORDERED that:

3 1. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is
4 directed to serve within ninety days of the date of this order, all process pursuant to Fed. R. Civ.
5 Proc. 4, including a copy of this court's scheduling order in a social security case, without
6 prepayment of costs.

7 2. The Clerk of the Court shall send plaintiff one USM-285 form for each
8 defendant, one summons, a copy of the filed-endorsed complaint, an appropriate form for consent
9 to trial by a magistrate judge, and this court's scheduling order.

10 3. Plaintiff is directed to supply the U.S. Marshal, within 15 days from the date
11 this order is filed, all information needed by the Marshal to effect service of process on all
12 required entities or individuals, and *shall file a statement with the court that such documents*
13 *have been submitted to the United States Marshal.* The court anticipates that to effect service the
14 U.S. Marshal will require at least:

- 15 a. One completed summons for each defendant;
- 16 b. One completed USM-285 form for each defendant;
- 17 c. One copy of the endorsed filed complaint for each defendant, with
18 three extra copies for the U.S. Marshal;
- 19 d. Three copies copy of this court's scheduling order; and
- 20 e. Three copies of the instant order.

21 4. The United States Marshal is ordered to serve defendant United States by
22 delivering a copy of the summons, complaint, scheduling order and instant order to the United
23 States Attorney for the Eastern District of California, and to send a copy of the required
24 documents registered or certified mail to the Attorney General of the United States at
25 Washington, D.C. See Fed. R. Civ. P. 4(i)(1)(A) & (B). The Marshal shall also send a copy of
26 the summons and complaint by registered or certified mail to the Commissioner of Social

1 Security, 350 Independence Avenue, Washington, D.C. See Fed. R. Civ. Pr. 4(i)(2).

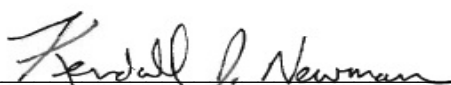
2 5. In the event the U.S. Marshal is unable, for any reason whatsoever, to
3 effectuate service on any defendant within 90 days from the date of this order, the Marshal is
4 directed to report that fact, and the reasons for it, to the undersigned.

5 6. The Clerk of the Court is directed to serve a copy of this order on the U.S.
6 Marshal.

7 **IT IS SO ORDERED**

8 DATED: March 29, 2010

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE