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

TROY COOPER,

Plaintiff,

No. CIV S-10-1057 DAD P

vs.

KAUER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has filed an application to proceed in forma pauperis under 28 U.S.C. § 1915. This proceeding was referred to the undersigned magistrate judge in accordance with Local Rule 302 and 28 U.S.C. § 636(b)(1).

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

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. See 28 U.S.C. § 1914(a) & 1915(b)(1). Plaintiff has been without funds for six months and is currently without funds. Accordingly, the court will not assess an initial partial filing fee. See 28 U.S.C. § 1915(b)(1). Plaintiff will be obligated to make monthly payments of twenty percent of

1 the preceding month's income credited to plaintiff's prison trust account. These payments will
2 be collected and forwarded by the appropriate agency to the Clerk of the Court each time the
3 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. See 28 U.S.C.
4 § 1915(b)(2).

5 Plaintiff's complaint appears to state cognizable claims for relief pursuant to 42
6 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). Plaintiff alleges that defendants provided him
7 inadequate medical care in violation of the Eighth Amendment. If these allegations are proven,
8 plaintiff has a reasonable opportunity to prevail on the merits of this action. However, plaintiff is
9 advised that the court cannot order service of his complaint on defendants not actually named.
10 Therefore, if plaintiff discovers the identity of the individual identified as "Pharmacist Doe " in
11 his complaint, he should seek leave of the court to amend his complaint to name that individual.
12 See Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999) ("[P]laintiff should be given
13 the opportunity through discovery to identify the unknown defendants."). Plaintiff is also
14 advised that he may amend his pleading "once as a matter of course at any time before a
15 responsive pleading is served." Fed. R. Civ. P. 15(a). Once a defendant has filed an answer,
16 plaintiff may amend a pleading only by leave of court or by written consent of the adverse party.
17 See id.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. Plaintiff's April 30, 2010 application to proceed in forma pauperis (Doc. No.
20 2) is granted;

21 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.
22 The fee shall be collected and paid in accordance with this court's order to the Director of the
23 California Department of Corrections and Rehabilitation filed concurrently herewith;

24 3. Service of the complaint is appropriate for the following defendants: (1) Kaur;
25 and (2) Chen.

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

TROY COOPER,

Plaintiff,

No. CIV S-10-1057 DAD P

vs.

KAUER, 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 form;

_____ two completed USM-285 forms; and

_____ three true and exact copies of the complaint filed April 30, 2010.

DATED: _____.

Plaintiff