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

SERGEI PORTNOY;
ELENA PORTNOY,

Plaintiffs,

No. CIV S-11-0264 GEB EFB PS

vs.

UNITED STATES OF AMERICA,

Defendant.

ORDER

This case, in which plaintiffs are proceeding *in propria persona*, was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1) and Eastern District of California Local Rule 72-302(c)(21). Plaintiffs request authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*, and have submitted the affidavits required thereunder which demonstrates that plaintiffs are unable to prepay fees and costs or give security thereof. Accordingly, the requests to proceed *in forma pauperis* will be granted. 28 U.S.C. § 1915(a).

Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss a case filed pursuant to the *in forma pauperis* statute if, at any time, it determines that the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. The court cannot make this determination on the present record. Therefore, the court reserves decision on these issues until

1 the record is sufficiently developed.

2 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

3 1. Plaintiffs' requests to proceed *in forma pauperis*, Dckt. Nos. 2 and 3, are granted.

4 2. The Clerk of the Court is directed to issue forthwith all process pursuant to Federal
5 Rule of Civil Procedure 4.

6 3. The Clerk of Court shall send plaintiffs one USM-285 form, one summons, a copy of
7 the complaint, this court's scheduling order, and the forms providing notice of the magistrate
8 judge's availability to exercise jurisdiction for all purposes and the court's voluntary dispute
9 resolution program.

10 4. Plaintiffs are advised that the U.S. Marshal will require:

11 a. One completed summons;

12 b. One completed USM-285 form for each defendant;

13 c. A copy of the complaint for each defendant, with an extra copy for the U.S.
14 Marshal; and,


15 d. A copy of this court's scheduling order and related documents for each
16 defendant.

17 5. Plaintiffs shall supply the United States Marshal, within 14 days from the date this
18 order is filed, all information needed by the Marshal to effect service of process, and *shall,*
19 *within 14 days thereafter, file a statement with the court that said documents have been*
20 *submitted to the United States Marshal.*

21 6. The U.S. Marshal shall serve process, with copies of this court's scheduling order and
22 related documents, within 90 days of receipt of the required information from plaintiffs, without
23 prepayment of costs. *The United States Marshal shall, within 14 days thereafter, file a statement*
24 *with the court that said documents have been served.* If the U.S. Marshal is unable, for any
25 reason, to effect service of process on any defendant, the Marshal shall promptly report that fact,
26 and the reasons for it, to the undersigned.

1 7. The Clerk of Court shall serve a copy of this order on the United States Marshal, 501
2 "I" Street, Sacramento, CA 95814 (tel. 916-930-2030).

3 DATED: May 5, 2011.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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