

15 On April 29, 2008, plaintiff, a California prisoner then incarcerated at the Correctional 16 Training Facility at Soledad ("CTF-Soledad")<sup>1</sup> and proceeding pro se, filed the above-titled 17 civil rights action. By order dated September 26, 2008, the Court granted plaintiff's 18 application to proceed in forma pauperis and found the complaint stated cognizable claims 19 for injunctive relief and damages under Title II of the Americans with Disabilities Act of 20 1990, 42 U.S.C.§ 12101 et seq. ("ADA"). The Court directed the United States Marshal to 21 serve the California Department of Corrections and Rehabilitation ("CDCR"), a public entity 22 that is a proper defendant to plaintiff's ADA claim. See Pennsylvania Dep't of Corrections 23 v. Yeskey, 524 U.S. 206, 210 (1998) (holding state prisons are public entities under Title II). 24 On October 25, 2008, the Marshal mailed an envelope containing the summons and 25 complaint to the CDCR at a post office box in Sacramento. On November 3, 2008, the 26 Marshal returned the summons unexecuted for the reason that the envelope was returned by 27

<sup>1</sup>On April 13, 2009, plaintiff informed the Court he currently is incarcerated at the California Mens Colony in San Luis Obispo.

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the United States Postal Service as "not deliverable as addressed." (Docket No. 6.) 1

Thereafter, plaintiff filed the instant motion asking the Court to clarify whether service of the complaint has been accomplished. Plaintiff's motion is hereby GRANTED. Service has not been accomplished. Specifically, the Court has learned that the post office 4 box to which the envelope containing the summons and complaint was sent is not the proper 6 address for purposes of service on the CDCR. Consequently, the Court finds good cause exists for the Marshal to make another attempt to effectuate service at the correct address. 8 Accordingly, the Court hereby orders as follows:

9 The Clerk of the Court shall reissue summons, and the Marshal shall serve, without prepayment of fees, a copy of the complaint in this matter, all attachments thereto, and a copy 10 11 of this order and of the Court's September 26, 2008 order of service upon the California 12 Department of Corrections and Rehabilitation at the following address:

> Office of Legal Affairs California Department of Corrections and Rehabilitation 1515 S Street, Room 314-S Sacramento, CA 95814

The Clerk shall also mail a courtesy copy of this order to the California Attorney General's Office.

This order terminates Docket No. 8.

IT IS SO ORDERED.

DATED: April 17, 2009 20

United States District Judge

For the Northern District of California **United States District Court** 

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