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TERRY SPEARS,

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Plaintiff,

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v

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DEBRA DOLCH et al,

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Defendants.

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

No C 08-2366 VRW

ORDER

On May 7, 2008, plaintiff filed a two-page, handwritten complaint together with the \$350 filing fee. The complaint names "Debra J Dueltch [sic], Honorable Judge Durnam, Larry Siracuse and Pat Garner" as defendants; it asserts that plaintiff was awarded \$2.5 million in 1972 and alleges that defendants have abused their authority over the funds and have abused plaintiff emotionally, verbally and financially. Doc #1. Plaintiff consented to the jurisdiction of the magistrate judge to whom this case was initially assigned. Doc #3.

In July 2008, plaintiff filed a document styled a Notice of Hearing – Guardianship or Conservatorship that attached an "amendment to fourth account and report of successor conservator, petition for fees for successor conservator, for fees and costs for

1 attorney" signed by defendant Debra J Dolch as conservator of the
2 estate of "Terry Lee Spears, Conservatee." Doc #4. The document
3 enclosed a 25-page accounting of assets in the estate of "Terry Lee
4 Spears, Conservatee" for the period from March 1, 2007 to February
5 29, 2008.

6 Defendants neither consented to nor declined the
7 jurisdiction of the magistrate judge (presumably because they were
8 not served with the summons and complaint, as there is no
9 indication in the file that service was effected). This case was
10 then reassigned to the undersigned judge just over one year ago.
11 Doc #6. There has been no further docket activity in this case.

12 Because one year has passed with no activity in the case,
13 the court requests that plaintiff reaffirm the intention to proceed
14 with this lawsuit. IF PLAINTIFF WISHES TO PROCEED WITH THIS
15 LAWSUIT, PLAINTIFF MUST SUBMIT TO THE COURT, NO LATER THAN JULY 30,
16 2010, A LETTER SO STATING. IF SUCH A LETTER IS NOT RECEIVED ON OR
17 BEFORE JULY 30, 2010, THIS CASE WILL BE DISMISSED WITHOUT PREJUDICE.

18 If plaintiff elects to go forward, the court will
19 commence proceedings under Federal Rule of Civil Procedure 17(c)(2)
20 to appoint a next friend or guardian ad litem because plaintiff
21 appears to be under a conservatorship and wishes to sue the
22 conservator. (A conservator is authorized under the rule to sue on
23 plaintiff's behalf, but it would not be appropriate for the
24 conservator to act in that capacity in a lawsuit against herself.)


25 Plaintiff is advised (but not required) to contact the
26 Bar Association of San Francisco's Legal Help Center for free legal
27 assistance with this case. The Legal Help Center is located on the
28 15th Floor of the courthouse at 450 Golden Gate Avenue in San

1 Francisco. Appointments may be made by visiting the Legal Help
2 Center in person or by calling (415)782-9000, extension 8657.

3 The clerk is directed to correct the nature of suit code
4 for this action by changing the code from 446 (Americans with
5 Disabilities Act — other) to 440 (other civil rights) and to
6 terminate the deadlines associated with the incorrect ADA case
7 designation.

8 In conclusion, the court underscores that: (1) plaintiff
9 must respond to this order in the manner specified on page 2, lines
10 14-17 in order to proceed with this case; and (2) failure to
11 respond in a timely fashion will result in dismissal.

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13 IT IS SO ORDERED.

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16 _____
17 VAUGHN R WALKER
18 United States District Chief Judge
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