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

RICHARD WAYNE PARKER,

Plaintiff,

No. CIV S-10-0065 MCE EFB PS

vs.

UNITED STATES DEPARTMENT
OF JUSTICE, at al.,

Defendants.

ORDER

This case is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On May 20, 2010, the court granted plaintiff's application to proceed *in forma pauperis* in this action and order that service of process be made by the U.S. Marshal.¹ Dckt. No. 5. Also on May 20, 2010, the undersigned issued an order setting a status (pretrial scheduling) conference in this action on September 29, 2010, and directed the parties to file status reports in advance of that conference. Dckt. No. 6.

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¹ Service of process is undisputed and defendants have answered plaintiff's complaint. Although plaintiff has expressed concerned about potential service issues, *see* Dckt. No. 15, defendants have answered plaintiff's complaint and have therefore waived any challenges they may have had to the service of process in this action. *See* Fed. R. Civ. P. 12(h). Defendants also acknowledge in their status report that they were served. Dckt. No. 20 at 1.

1 Both parties filed status reports as ordered. Dckt. Nos. 19, 20. In his status report,
2 plaintiff, who is incarcerated, indicates that the institution at which he is located is currently on
3 lockdown, and he therefore requests to appear at the September 29, 2010 status conference
4 telephonically. Dckt. No. 19. In their status report, defendants state that because they are
5 currently still in the process of complying with the Freedom of Information Act ("FOIA"), which
6 is the basis of plaintiff's complaint, and because the timing of completion of FOIA compliance is
7 uncertain at this time, the status conference should be vacated and defendant should be required
8 to file a status report within approximately 60 days. Dckt. No. 20.

9 In light of defendants' representations, the September 29, 2010 status conference in this
10 action will be continued and plaintiff's request to appear at the September 29, 2010 status
11 conference will be denied as moot.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The September 29, 2010 status conference is continued to December 15, 2010 at
14 10:00 a.m. in Courtroom 24.

15 2. On or before December 1, 2010, defendants shall file a further status report addressing
16 the issues raised in the May 20, 2010 order, Dckt. No. 6, and addressing the status of defendants'
17 FOIA compliance.

18 3. Plaintiff is not required to file a further status report or a response to defendants'
19 status report, but if he elects to do so, any such status report or response to defendants' status
20 report shall be filed on or before December 8, 2010.

21 4. Plaintiff's request to appear telephonically at the September 29, 2010 status
22 conference, Dckt. No. 19, is denied as moot.

23 DATED: September 17, 2010.

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25 EDMUND F. BRENNAN
26 UNITED STATES MAGISTRATE JUDGE