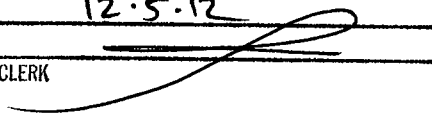
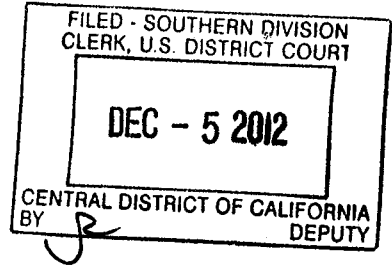


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I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL POSTAGE PREPAID, TO ~~ALL COUNSEL~~ *Plaintiff*
(OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATED: 12.5.12

DEPUTY CLERK



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LISA ANN WHEELER ARCE,)	Case No. EDCV 12-1092-JVS (JPR)
)	
Plaintiff,)	MEMORANDUM OPINION AND ORDER
)	DISMISSING COMPLAINT FOR
v.)	FAILURE TO SERVE
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social)	
Security,)	
)	
Defendant.)	
)	

On July 3, 2012, Plaintiff lodged the Complaint in this matter; it was filed July 18, 2012. That same day, the Court issued the summons. On July 19, 2012, the Magistrate Judge issued a Case Management Order, in which she ordered, among other things, that Plaintiff "promptly serve the summons and complaint on the Commissioner in the manner required by Rule 4(i) of the Federal Rules of Civil Procedure and 20 C.F.R. § 423.1." The Magistrate Judge also ordered Plaintiff to file proof of service with the Court and warned that "[f]ailure to effectuate proper service within 120 days after the filing of the complaint may result in dismissal of this case." To date, Plaintiff has not filed any

1 proof of service with the Court, and Defendant has not made an
2 appearance.¹

3 On November 16, 2012, 121 days after the Complaint was filed,
4 the Magistrate Judge issued an Order to Show Cause requiring
5 Plaintiff to show good cause in writing no later than November 30,
6 2012, why she apparently did not timely serve Defendant with the
7 summons and Complaint or file proof of service with the Court and
8 why, therefore, this action should not be dismissed for failure to
9 prosecute. Again, the Magistrate Judge expressly warned Plaintiff
10 that if she failed to comply with the OSC, her case might be
11 dismissed. Plaintiff has not responded to the OSC.

12 "If a defendant is not served within 120 days after the
13 complaint is filed, the court - on motion or on its own after
14 notice to the plaintiff - must dismiss the action without
15 prejudice against that defendant or order that service be made
16 within a specified time." Fed. R. Civ. P. 4(m); see Boudette v.
17 Barnette, 923 F.2d 754, 757 (9th Cir. 1991) (affirming dismissal
18 of complaint for failure to timely serve summons and complaint).

19 Here, Plaintiff has not effected service on the named
20 Defendant, nor has she responded to the Magistrate Judge's OSC
21 asking her to provide an explanation. While the Court is mindful
22 that Plaintiff is proceeding pro se, she nonetheless has a
23 responsibility to follow the Rules of Civil Procedure and this
24 Court's orders regarding service. Accordingly, it is ORDERED that
25 this action be dismissed without prejudice because Plaintiff has

26
27 ¹ On September 25, 2012, Plaintiff "simply mailed to the Court
28 copies of documents she previously filed in this action"; for that
reason, the Clerk issued a deficiency order, which the Magistrate Judge
signed, and returned the documents to Plaintiff.

1 apparently failed to effect service on the named Defendant and has
2 failed to file proof of service with the Court or respond to the
3 Magistrate Judge's OSC. See Link v. Wabash R.R., 370 U.S. 626,
4 629-30, 82 S. Ct. 1386, 1388, 8 L. Ed. 2d 734 (1962).

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6 Dated: December 5, 2012



JAMES V. SELNA
U.S. District Judge

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8 Presented By:

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Jean Rosenbluth
U.S. Magistrate Judge

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