

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

No.	CV 15-2070-PA (AS)	Date	March 23, 2017
Title	<i>Gordon Bullock v. S. Johnson and T. Brekke,.</i>		

Present: The Honorable	Alka Sagar, United States Magistrate Judge
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Alma Felix

Not reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not present

Not present

Proceedings (In Chambers):

Order to Show Cause Re. Lack of Prosecution

On May 31, 2016, *pro se* Plaintiff Gordon Bullock filed a Third Amended Complaint naming S. Johnson and T. Brekke as defendants. (Docket Entry No. 16). On June 30, 2016, the Court determined that the Third Amended Complaint could be served on the defendants and issued orders directing service of process by the United States Marshall. (Docket Entry Nos. 17-19). The Court’s docket reflects that on August 26, 2016, the United States Marshall was unable to serve defendant T. Brekke after being advised that T. Brekke is deceased. (Docket Entry No. 22).

As of the date of this order, defendant T. Brekke remains unserved. Rule 4(m) of the Federal Rules of Civil Procedure provides that “[i]f a defendant is not served within 90 days after the complaint is filed, the Court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Accordingly, Plaintiff is ORDERED TO SHOW CAUSE, in writing, no later than **Monday, April 24, 2017**, why this action should not be dismissed without prejudice as to defendant Brekke for failure to complete service of the operative complaint in a timely manner. This Order will be discharged upon the filing of an amended USM-285 form (“Process Receipt and Return”) and form notice of submission setting forth an address where Defendant Brekke can be served and any special instructions or other information to assist with service, or by filing a declaration under penalty of perjury stating why Plaintiff is unable to do so.

The Clerk is directed to attach a copy of the Court’s Order re service of process, dated June 30, 2016, (Docket Entry No. 18) to this Order and provide Plaintiff with a USM-285 form, copies of the Order Directing Service and a form Notice of Submission. .

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If Plaintiff no longer wishes to pursue this action against defendant T. Brekke, he may request a voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a) of this action against defendant Brekke without prejudice. A notice of dismissal form is attached for Plaintiff's convenience.

Plaintiff is warned that a failure to timely respond to this Order will result in a recommendation that this action be dismissed with prejudice – as to Defendant Brekke - under Federal Rule of Civil Procedure 41(b) for failure to prosecute and obey court orders.

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