

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. 2:16-cv-03840-JAK-KES

Date: May 25, 2017

Title: Derek Wardlaw v. Marino, et al.

PRESENT:

THE HONORABLE KAREN E. SCOTT, U.S. MAGISTRATE JUDGE

Jazmin Dorado
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR DEFENDANT:
None Present

PROCEEDINGS (IN CHAMBERS):

**ORDER to show cause why the correct
defendant has not been identified**

On April 11, 2017, the Court served a modified version of Plaintiff’s proposed subpoena on the Los Angeles County Sheriff’s Department (“LASD”). (Dkt. 46.) As relevant here, Plaintiff’s subpoena sought documents that may assist Plaintiff in identifying the correct defendant named in Plaintiff’s Third Amended Complaint (“TAC”) as “Marino.”¹ (*Id.*) Plaintiff’s modified subpoena requested shift in-service documents for May 7, 2014 through May 17, 2014 and May 21, 2014 through June 12, 2014, showing which officers worked on the 6th Floor of Tower One of the Twin Towers Correctional Facility (where Plaintiff was housed during that time period). Plaintiff’s subpoena requested a response within fourteen days of service. The Court also ordered that any objections to the subpoena be served on Plaintiff and filed with the Court. (*Id.* at 2.)

The Court received a return receipt indicating that LASD’s Civil Litigation Unit received the subpoena and accompanying Court Order. As of the date of this Order, LASD has not notified the Court that it objects to the subpoena, nor has Plaintiff notified the Court that he has not received subpoena responses. The Court therefore assumes that Plaintiff has received the shift in-service documents

¹ Plaintiff’s subpoena also sought video footage from the dates and locations where the constitutional violations alleged in his TAC took place.

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requested.

On or before June 26, 2017, Plaintiff is hereby ordered to either (1) file a status report identifying the correct defendant who was initially named in Plaintiff's TAC as "Marino," if he was able to identify that defendant through the subpoena responses, or (2) show cause as to why he still cannot identify the correct defendant, or (3) file a voluntary dismissal of Defendant "Marino" without prejudice. The Clerk of Court shall please attach a blank Notice of Dismissal form to this Order.

Initials of Deputy Clerk JD

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER

v.
Plaintiff(s),

Defendant(s).

**NOTICE OF DISMISSAL PURSUANT
TO FEDERAL RULES OF CIVIL
PROCEDURE 41(a) or (c)**

PLEASE TAKE NOTICE: (*Check one*)

- This action is dismissed by the Plaintiff(s) in its entirety.
- The Counterclaim brought by Claimant(s) _____ is dismissed by Claimant(s) in its entirety.
- The Cross-Claim brought by Claimants(s) _____ is dismissed by the Claimant(s) in its entirety.
- The Third-party Claim brought by Claimant(s) _____ is dismissed by the Claimant(s) in its entirety.
- ONLY** Defendant(s) _____

_____ is/are dismissed from (*check one*) Complaint, Counterclaim, Cross-claim, Third-Party Claim brought by _____.

The dismissal is made pursuant to F.R.Civ.P. 41(a) or (c).

Date

Signature of Attorney/Party

NOTE: F.R.Civ.P. 41(a): This notice may be filed at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.

F.R.Civ.P. 41(c): Counterclaims, cross-claims & third-party claims may be dismissed before service of a responsive pleading or prior to the beginning of trial.