

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-5754-JGB (SP)	Date	October 30, 2017
Title	ALLEN HAMMLER v. PITA, et al.		

Present: The Honorable	Sheri Pym, United States Magistrate Judge
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Kimberly I. Carter

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

None Present

None Present

Proceedings: **(In Chambers) Order to Show Cause Why Defendant Pita Should Not Be Dismissed for Plaintiff’s Failure to Prosecute**

On September 1, 2017, the court issued two orders that provided for service of the operative First Amended Complaint on defendant Pita. One order, the Order Directing Service of Process by the United States Marshal (“Service Order”) (docket no. 14), directed service on defendant Pita. The second order, the Order Re: Service of Process by United States Marshal (“Order Re: Service”) (docket no. 13), set forth certain steps that needed to be taken to allow the U.S. Marshal to accomplish such service.

In particular, in the Order Re: Service, the court ordered plaintiff to complete a separate USM-285 form for each defendant, and then send the completed forms to the clerk of court. The clerk sent plaintiff copies of blank USM-285 forms with the Order Re: Service, and the Order Re: Service gave plaintiff specific instructions as to how to complete the forms. The Order Re: Service set a deadline of October 2, 2017 for plaintiff to return to the clerk the completed USM-285 forms, and to complete and file the Notice of Submission form attached to the Order Re: Service. The court explicitly cautioned: *“If plaintiff does not submit the completed USM-285 forms and file the Notice of Submission by **October 2, 2017**, this action will be subject to dismissal without prejudice for plaintiff’s failure to comply with the court’s order and/or plaintiff’s failure to prosecute.”*

Four weeks have passed since the October 30, 2017 deadline, and plaintiff has not returned USM-285 forms for defendant Pita, nor has plaintiff filed the Notice of Submission. It therefore appears that plaintiff has failed to comply with the court’s Order Re: Service. Plaintiff’s failure to comply with the court’s Order Re: Service renders this

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action subject to dismissal for failure to comply with a court order and failure to prosecute. Moreover, the action cannot proceed against defendant Pita if plaintiff does not take the steps required to serve him with the First Amended Complaint.

Accordingly, within **fourteen (14)** days of the date of this Order, that is, by **November 13, 2017**, plaintiff is **ORDERED TO SHOW CAUSE**, in writing, why this case should not be dismissed for plaintiff's failure to prosecute and comply with a court order. Plaintiff may discharge this Order to Show Cause by returning completed USM-285 form for defendant Pita and filing the Notice of Submission by November 13, 2017. Plaintiff is cautioned that his failure to timely file a response to this Order to Show Cause will be deemed by the court as consent to the dismissal of this case without prejudice.