

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES – GENERAL

Case No. CV 21-587 MWF (PLAx) Date: April 26, 2021

Title J. Clark v. Rita Gail Farris-Ellison, et al.

Present: The Honorable: MICHAEL W. FITZGERALD, United States District Judge

Rita Sanchez
Deputy Clerk

Not Reported
Court Reporter / Recorder

Attorneys Present for Plaintiffs:
Not Present

Attorneys Present for Defendants:
Not Present

Proceedings: (IN CHAMBERS) ORDER DISMISSING ACTION WITHOUT PREJUDICE

Plaintiff filed this action on December 10, 2020, in Los Angeles County Superior Court. (Notice of Removal (“NoR”), Ex. A, Complaint (Docket No. 1-1)). Defendant Flagstar Bank, FSB (“Flagstar”) removed the action on January 21, 2021. (NoR (Docket No. 1)). No other Defendants joined in or consented to the removal because Plaintiff had not served any Defendants with a copy of the Summons and Complaint. (*See* Flagstar’s Response to Order to Show Cause (“OSC Response”) at 1 (Docket No. 13)).

On February 16, 2021, the Court issued an Order to Show Cause directing Plaintiff to file proofs of service of all Defendants on or before March 10, 2021 (the “OSC”). (Docket No. 12). The Court explained that Plaintiff’s failure to file the proofs of service by March 10, 2021, would result in the dismissal of this action without prejudice pursuant to Federal Rule of Civil Procedure 4(m). (*Id.*). On March 15, 2021, the Court sua sponte extended the deadline for Plaintiff to respond to the OSC to April 21, 2021. (Docket Nos. 14, 18). To date, Plaintiff has not filed any proofs of service. (*See* Docket).

To avoid dismissal under Rule 4(m), Plaintiff was required to serve all Defendants by April 21, 2021. *See Vasquez v. N. Cty. Transit Dist.*, 292 F.3d 1049, 1053 (9th Cir. 2002) (citing 28 U.S.C. § 1448 and noting that the ninety-day

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clock for purposes of Rule 4(m) resets with removal). Plaintiff has neither demonstrated that he has served all Defendants nor requested an extension of time to serve Defendants.

Accordingly, the action is **DISMISSED *without prejudice*** for failure to comply with Rule 4(m).

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.

IT IS SO ORDERED.