

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

CIVIL MINUTES--GENERAL

Case No. **2:23-cv-02563-FLA (DTB)**

Date: **February 7, 2024**

Title: **Preston D. Perkins v. Joseph J. Seida, et al.**

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DOCKET ENTRY

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PRESENT:

HON. DAVID T. BRISTOW, MAGISTRATE JUDGE

S. Lorenzo
Deputy Clerk

n/a
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

None present

ATTORNEYS PRESENT FOR DEFENDANT(S):

None present

PROCEEDINGS: (IN CHAMBERS) ORDER REQUIRING PLAINTIFF TO PROPERLY SERVE SUMMONS AND FIRST AMENDED COMPLAINT AND FILE PROOF OF SERVICE

Plaintiff Preston D. Perkins filed a First Amended Complaint on November 10, 2023. On February 2, 2024, plaintiff filed Proofs of Service of Summons (“Proofs of Service”). The Proofs of Service do not demonstrate that the defendants were properly served.

Fed. R. Civ. P. 4 sets forth the requirements for proper service. Simply mailing the Summons and FAC by certified mail is insufficient to effectuate service. Plaintiff should review the requirements of Fed. R. Civ. P. 4 and Cal. Code Civ. Proc. § 415.10, et seq., and serve the Summons and FAC using one of the authorized methods.

Pursuant to Fed. R. Civ. P. 4(e)(2), to effectuate proper service of a Summons within a judicial district of the United States, plaintiff must do any of the following: (A) deliver a copy of the Summons and of the FAC to the individual **personally**; (B) leave a copy of the Summons and FAC at the individual’s dwelling or usual place of abode with someone of suitable age and discretion who resides there; or (C) deliver a copy of the Summons and FAC to an agent authorized by appointment or by law to receive service of process.

Pursuant to Rule 4(e)(1), service of a summons may also be accomplished by following the law of the state where the district court is located or where service is

made. Here, as it appears that all of the defendants are in California, only California law is applicable. Finally, pursuant to Rule 4(1)(1), proof of service must be made by the server's affidavit.

The proofs of service submitted by plaintiff to the Court are not complete and do not specify the method and circumstances of service. Plaintiff should review the requirements of Fed. R. Civ. P. 4 and Cal. Code Civ. Proc. § 415.10, et seq., to ensure that service was properly effectuated. In the event plaintiff believes service has been properly effectuated, plaintiff must submit amended proofs of service specifying the method and circumstances of service.

On or before **March 7, 2024**, plaintiff shall properly serve the Summons and FAC on defendants and shall file proofs of service demonstrating proper service.

The Court advises plaintiff that failure to serve the Summons and FAC and file the proofs of service on or before **March 7, 2024**, may result in dismissal of this action for failure to prosecute.

IT IS SO ORDERED.