

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 8:20-cv-00323-DMG-JC Date February 16, 2021

Title Francois Tabi v. The Regents and Trustees of Santa Ana College, et al.

Present: The Honorable Jacqueline Chooljian, United States Magistrate Judge

Kerri Hays

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

none

none

Proceedings: (IN CHAMBERS)

ORDER TO SHOW CAUSE

On February 18, 2020, plaintiff paid the filing fee and filed a complaint against (1) “The Regents and Trustees of Santa Ana College”; (2) “The President of Santa Anna [sic] College”; (3) “Officer Baker of Santa Ana College”; and (4) “Two Unnamed Officers of Santa Ana College” (collectively “defendants”). Each defendant was sued in their individual and official capacities.

On April 25, 2020, the Court issued an order (“April Order”) advising plaintiff that pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service of the summons and complaint must be accomplished on each defendant within 90 days after the filing of the complaint (*i.e.*, by May 18, 2020), absent good cause shown to extend the time for an appropriate period. The April Order directed plaintiff to file separate proof of service forms for each defendant served within the 90-day period, and cautioned plaintiff that his failure to effectuate proper service by May 18, 2020, may result in dismissal of the action without prejudice as to any unserved defendant(s) by reason of plaintiff’s failure to prosecute, unless plaintiff could show good cause to extend the time for service.

Since plaintiff failed to file proof of service indicating that any defendant had been served within the 90-day period, on June 17, 2020, the Court issued an Order to Show Cause (“First OSC”) requiring plaintiff to “show cause, if there be any, why service was not made on defendants by May 18, 2020, and why this case should not be dismissed without prejudice as against such defendants for failure to effectuate service and for lack of prosecution.” However, on June 29, 2020, after plaintiff requested an extension of time to serve defendants,¹ the Court vacated the First OSC and extended until August 17, 2020 the deadline for plaintiff to effect proper service of process upon the defendants and to file proofs of service reflecting the same. Plaintiff was also “cautioned that his failure to effectuate proper service

¹Plaintiff’s Motion for Extension of Time was filed before the OSC issued, but the Court did not receive it until after the OSC was issued.

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and to file proper proofs of service by August 17, 2020 may result in dismissal of the action without prejudice as to any remaining unserved defendant due to plaintiff's failure to prosecute, unless plaintiff can show good cause for further extending the time for service."

Plaintiff did not file any proof of service forms by the extended deadlines. However, the Rancho Santiago Community College District ("District") filed a Motion to Dismiss on July 14, 2020, which indicated plaintiff served the District with the Complaint on June 23, 2020. (See Declaration of Tom A. Wiseman in Support of Motion to Dismiss, ¶ 5). Additionally, on October 5, 2020, plaintiff filed proofs of service indicating service was completed on: "Linda D. Rose, President of Santa Ana College," on September 16, 2020; "Claudia Cortes Alvarez, as The Regents and Trustees of Santa Ana College" on September 18, 2020; and "Arianna P. Barrios, as The Regents and Trustees of Santa Ana College" on September 20, 2020.² However, to date, plaintiff has failed to file a proof of service form reflecting that "Officer Baker of Santa Ana College" and "Two Unnamed Officers of Santa Ana College" have been served.

IT IS THEREFORE ORDERED, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and Local Rule 41-1, that by not later than **February 26, 2021**, plaintiff shall show cause, if there be any, why service was not made on Officer Baker and the Two Unnamed Officers by August 17, 2020, and why this case should not be dismissed against them without prejudice for failure to effectuate service and/or for lack of prosecution. Failure timely to respond to this Order to Show Cause or to show cause, may result in the dismissal of this action without prejudice for failure to effectuate service and/or for lack of prosecution.

IT IS SO ORDERED.

²The Court's discussion of the proofs of service is not a determination that any party has been properly served.