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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ALFRED BROWN,

Plaintiff,

v.

DAVID KYLE, et al.,

Defendants.

CASE NO. 1:04-cv-06539-AWI-SMS PC

ORDER DISMISSING DEFENDANT  
KLARICH FROM ACTION PURSUANT  
TO RULE 4(M)

(Doc. 50)

Plaintiff Alfred Brown, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on November 15, 2004. This action is proceeding on Plaintiff's amended complaint, filed October 23, 2006, against Defendants Kyle, Domingo, Klarich, and Ruff. The United States Marshal was unable to effect service of process on Defendant Klarich because he is deceased, and service was returned unexecuted. After providing Plaintiff with the opportunity to show cause why Defendant Klarich should not be dismissed, the Court issued an order on June 11, 2010, discharging the order to show cause and providing Plaintiff the opportunity to substitute the proper party in light of Defendant Klarich's death and provide that party's address for service. Fed. R. Civ. P. 4(m). Plaintiff was warned that if he failed to make the proper substitution and provide a current address for service on or before September 12, 2010, Defendant Klarich would be dismissed from this action.

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1 To date, Plaintiff has not made the proper substitution and provided a current address for  
2 service. Therefore, Defendant Klarich is HEREBY ORDERED DISMISSED from this action. Fed.  
3 R. Civ. P. 4(m).

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5 IT IS SO ORDERED.

6 Dated: November 23, 2010

  
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8 CHIEF UNITED STATES DISTRICT JUDGE