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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

RODNEY SCHULTZ and PATRICIA	)	No. CV-F-08-526 OWW/SMS
SCHULTZ,	)	
	)	ORDER DIRECTING DEFENDANT
	)	JUANITA PRICE TO FILE NOTICE
	)	OF MOTION AND PROOF OF
Plaintiffs,	)	SERVICE RE MOTION FOR
	)	SUMMARY JUDGMENT FILED ON
vs.	)	MARCH 31, 2009
	)	
SAKAYE ICHIMOTO, et al.,	)	
	)	
	)	
Defendants.	)	
	)	
	)	

On March 31, 2009, Defendant Juanita Price, proceeding in *pro per*, filed a motion for summary judgment (Doc. 116).

Defendant's motion does not include a notice of motion as required by Rule 78-230(b), Local Rules of Practice:

Except as otherwise provided by these Rules or as ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the assigned Judge or Magistrate Judge. The moving party shall file with the Clerk a notice of motion, motion, accompanying briefs, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. The matter

1 shall be set for hearing on the motion  
2 calendar of the Judge or Magistrate Judge to  
3 whom the action has been assigned or before  
4 whom the motion is to be heard, not less than  
5 twenty-eight (28) days after personal service  
6 and filing of the motion or not less than  
7 thirty-one (31) days after mailed or  
8 electronic service and filing of the motion.  
9 Motions defectively noticed shall be filed,  
10 but not set for hearing; the Clerk shall  
11 immediately notify the moving party of the  
12 defective notice and of the next available  
13 dates and times for proper notice, and the  
14 moving party shall file and serve a new  
15 notice of motion setting forth the proper  
16 time and date.

17 In addition, Defendant's motion does not contain a proof of  
18 service as required by Rule 5-135, Local Rules of Practice:

19 (c) Proof of Service for Paper Documents.  
20 When service of any pleading, notice, motion,  
21 or other document required to be served is  
22 made, proof of such service shall be endorsed  
23 upon or affixed to the original of the  
24 document when it is lodged or filed. Except  
25 for ex parte matters, a paper document shall  
26 not be submitted for filing unless it is  
27 accompanied by a proof of service. Proof of  
28 service shall be made under penalty of  
29 perjury and shall include the date, manner  
30 and place of service.

31 (b) Service Upon All Parties. Unless a  
32 party expressly waives service, copies of all  
33 documents submitted to the Court shall be  
34 served upon all parties to the action ....

35 The Court cannot and will not consider Defendant's motion  
36 for summary judgment until she complies with these rules.  
37 Defendant is advised that the earliest available date for civil  
38 law and motion is Monday, June 22, 2009 at 10:00 a.m. in  
39 Courtroom 3.

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1 IT IS SO ORDERED.

2 **Dated:** April 3, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE

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