

1 insufficiency of service of process. (ECF No. 183.) That motion was denied. (ECF No.
2 190). Defendants Campos and Johnson have moved to quash service. (ECF No. 201.)
3 Their motion remains pending.

4 Service on Defendants Zakari, Bastianon, Edmonds, and Raygoza has been
5 returned unexecuted. (ECF Nos. 177, 179, 193, 194.) On July 22, 2014, Plaintiff was
6 ordered to show cause why these Defendants should not be dismissed for failure to
7 provide sufficient information to effect service of the summons and complaint. (ECF No.
8 195.) Plaintiff responded that he had a pending motion to compel discovery of the full
9 names of these Defendants. (ECF Nos. 197 & 198.) Thereafter, on August 19, 2014, the
10 Court granted in part Plaintiff's motion to compel and discharged the order to show
11 cause. (ECF No. 199.) Plaintiff has not taken any further steps to effect service on
12 Defendants Zakari, Bastianon, Edmonds, and Raygoza in the nearly seven months since
13 his motion to compel was granted.

14 In cases involving a plaintiff proceeding in forma pauperis, the Marshal, upon
15 order of the Court, shall serve the summons and the complaint. 28 U.S.C. § 1915(d);
16 Fed. R. Civ. P. 4(c)(3). “[A]n incarcerated pro se plaintiff proceeding in forma pauperis is
17 entitled to rely on the U.S. Marshals for service of the summons and complaint and [he]
18 should not be penalized by having his action dismissed for failure to effect service where
19 the U.S. Marshal or the court clerk has failed to perform his duties.” Walker v. Sumner,
20 14 F.3d 1415, 1422 (9th Cir. 1994) (internal quotations and citation omitted), overruled
21 on other grounds by Sandin v. Connor, 515 U.S. 472 (1995). “So long as the prisoner
22 has furnished the information necessary to identify the defendant, the marshal’s failure
23 to effect service is automatically good cause. . . .” Walker, 14 F.3d at 1422 (internal
24 quotations and citation omitted). However, where a pro se plaintiff fails to provide the
25 Marshal with accurate and sufficient information to effect service of the summons and
26 complaint, the Court’s sua sponte dismissal of the unserved defendants is appropriate.
27 Walker, 14 F.3d at 1421-22.

1 At this time, the Marshals Service has exhausted the avenues available to it to
2 locate and serve Defendants Zakari, Bastianon, Edmonds, and Raygoza. See Walker,
3 14 F.3d at 1421-22. Accordingly, Plaintiff shall be required to show cause why these
4 Defendants should not be dismissed based on inability to effect service on them. Fed. R.
5 Civ. P. 4(m). If Plaintiff either fails to respond to this order or responds but fails to show
6 cause, the Court will recommend that Defendants Zakari, Bastianon, Edmonds, and
7 Raygoza be dismissed from the action without prejudice.

8 Based on the foregoing, it is HEREBY ORDERED that:

- 9 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall
10 show cause why Defendants Zakari, Bastianon, Edmonds, and Raygoza
11 should not be dismissed from this action; and
- 12 2. If Plaintiff fails to respond to this order or fails to show cause, the Court will
13 recommend that Defendants Zakari, Bastianon, Edmonds, and Raygoza be
14 dismissed from this action without prejudice.

15 IT IS SO ORDERED.

16 Dated: March 16, 2015

17 /s/ Michael J. Seng
18 UNITED STATES MAGISTRATE JUDGE