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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MANDY EVA ALEC,) 1:11-cv-01385 AWI GSA
)
Plaintiff,)
)
v.)
)
Defendants.)

COUNTY OF CALAVERAS, a municipality,)
CALAVERAS COUNTY SHERIFF’S)
DEPARTMENT; GARY KUNTZ,)
individually and in his official capacity as)
CALVERAS COUNTY SHERRIFF;)
MICHELLE BUSBY, individually, and)
DOES ONE through Twenty-FIVE, inclusive,)
_____)

**ORDER TO SHOW CAUSE WHY
SUMMONS AND COMPLAINT HAVE
NOT BEEN SERVED IN COMPLIANCE
WITH RULE 4 OF THE FEDERAL
RULES OF CIVIL PROCEDURE**

On May 27, 2011, Plaintiff filed a civil rights action in the Calaveras County Superior Court (Doc. 1 at pg. 7). On August 18, 2011, Defendants, County of Calaveras and Gary Kuntz removed the action to this Court. ¹ (Doc. 1).

To date, Plaintiff has filed no documents to show proof of service of the summons and

¹ Defendants allege that Calaveras County and Calaveras County Sheriff’s Department and were erroneously named in this action. (Doc. 1 at pg. 1).

1 complaint on Defendant Michelle Busby, nor has Michelle usby appeared in this action.
2 Therefore, Plaintiff has not established she has complied with Rule 4(l) and (m) of the Federal
3 Rules of Civil Procedure with regard to this Defendant.

4 **DISCUSSION**

5 Rule 4(m) of the Federal Rules of Civil Procedure provides in pertinent part:

6 If service of the summons and complaint is not made upon a defendant
7 within 120 days after the filing of the complaint, the court, upon motion or on its
8 own initiative after notice to the plaintiff, shall dismiss the action without
9 prejudice as to that defendant or direct that service be effected within a specified
time; provided that if the plaintiff shows good cause for the failure, the court shall
extend the time for service for an appropriate period.

10 More than 120 days have elapsed since Plaintiff filed the summons and complaint in this
11 action. **Thus, this Court ORDERS Plaintiff, no later than November 30, 2011, to show**
12 **cause in writing** why Plaintiff has failed to file documents to show proof of service of the
13 summons and complaint on the aforementioned Defendant in compliance with Rule 4 (l) and (m)
14 of the Federal Rules of Civil Procedure. **Plaintiff is advised that this Court will recommend**
15 **dismissal of this action with regard to Michelle Busby if Plaintiff fails to comply with this**
16 **Order and to show good cause for her failure to file proof of service of the summons and**
17 **complaint on this Defendant.** In the alternative, Plaintiff may file the appropriate dismissal
18 documents with regard to this Defendant in response to this Order to Show Cause.

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20 IT IS SO ORDERED.

21 **Dated: November 15, 2011**

/s/ Gary S. Austin
22 UNITED STATES MAGISTRATE JUDGE
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