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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LONG WAY,)	1:12cv00357 AWI DLB PC
)	
Plaintiff,)	ORDER REQUIRING PLAINTIFF TO
)	SERVE COMPLAINT ON DEFENDANTS
vs.)	WITHIN ONE-HUNDRED TWENTY DAYS
)	
20 UNKNOWN EMPLOYEES,)	
)	
Defendants.)	

Plaintiff Long Way (“Plaintiff”), a federal prisoner proceeding pro se, filed this civil action on March 9, 2012, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors. Plaintiff paid the filing fee and is therefore not proceeding in forma pauperis.

Plaintiff filed his Third Amended Complaint on August 5, 2013. On August 26, 2013, the Court ordered Plaintiff to serve his Third Amended Complaint within 120 days.

Plaintiff has so far succeeded in serving eight Defendants. Those Defendants have appeared in this action and have been granted an extension of time to file a responsive pleading.

On January 16, 2014, Defendants provided additional information to assist in serving Defendants Tincher, Bautista, B. Herrera, J.E. Garcia, Aquitania, Aguirre, L. Taitano, Fields, Robinson, Gallegos, Shandor, Paniagua and Watkins. For these 13 Defendants, Defendants have

1 provided a full name and work address at which they can be served. For Defendants W. Gray,
2 Linsenmeyer, S. Jackson, Spencer and F. Silver, Defendants indicate that Bureau of Prisons
3 attorney Troy Dorrett will accept service on their behalf.

4 As noted in the order vacating the subpoena, on January 21, 2014, summons was returned
5 executed as to Defendant Watkins and she no longer needs to be served.

6 Plaintiff is not proceeding in forma pauperis and is not entitled to service by the United
7 States Marshall. Plaintiff is responsible for service, and he must serve these 17 Defendants in
8 accordance with Rule 4(i) of the Federal Rules of Civil Procedure.

9 Included with this order are the appropriate documents and a copy of Rule 4. Unless
10 good cause for an extension of time is shown, Plaintiff must complete service of process and file
11 proof thereof with the Court within one-hundred twenty days. Fed. R. Civ. P. 4(m). The
12 following sections contain instructions on how to serve Defendants.

13
14 **A. Instructions on Completing Service**

15 This is a Bivens action and therefore personal service is required. Daly–Murphy v.
16 Winston, 837 F.2d 348, 355 (9th Cir.1987) (“where money damages are sought through a Bivens
17 claim, personal service, and not service through the place of employment, is necessary to obtain
18 jurisdiction over a defendant in his capacity as an individual.”).

19 Therefore, the summons, a copy of the Third Amended Complaint, and a copy of this
20 order must be personally served on each Defendant in accordance with Federal Rule of Civil
21 Procedure 4(i). Rule 4(i) requires service on the individual Defendants, as well as the United
22 States Attorney for the district where the action is pending and the United States Attorney.

23 Plaintiff may not effect personal service himself. Fed. R. Civ. P. 4(c)(2). Service may be
24 effected by any person who is not a party to this action and who is at least eighteen years old. Id.
25 Plaintiff should review Rule 4(i), provided with this order, as it more fully addresses how
26 personal service is effected.
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1 Defendants Tincher, Bautista, B. Herrera, J.E. Garcia, Aquitania, Aguirre, L. Taitano,
2 Fields, Robinson, Gallegos, Shandor and Paniagua should be served at the addresses provided by
3 Defendants. Plaintiff may serve Defendants W. Gray, Linsenmeyer, S. Jackson, Spencer and F.
4 Silver by mailing service documents to Troy Dorrett at the address provided by Defendants.

5 **B. Order**

6 In accordance with the above, it is HEREBY ORDERED that:

7 1. The Clerk of the Court shall issue and send Plaintiff 17 summonses, for
8 Defendants **Tincher, Bautista, B. Herrera, J.E. Garcia, Aquitania, Aguirre, L. Taitano,**
9 **Fields, Robinson, Gallegos, Shandor, Paniagua, W. Gray, Linsenmeyer, S. Jackson,**
10 **Spencer and F. Silver,** and shall send Plaintiff one copy of the following documents:
11

- 12 a) Third Amended Complaint filed on August 5, 2013; and
13 b) A copy of Rule 4 of the Federal Rules of Civil Procedure.¹

14 2. Plaintiff shall complete service of process on the above-named Defendants within
15 **one-hundred twenty (120) days** from the date of service of this order; and

16 3. Unless good cause is shown, Plaintiff's failure to complete service of process on
17 Defendants and to file proof thereof with the Court within one-hundred twenty days will result in
18 dismissal of this action.

19
20 IT IS SO ORDERED.

21 Dated: February 3, 2014

22 /s/ Dennis L. Beck
23 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The Clerk need not send Plaintiff the "Notice of Lawsuit and Request for Waiver of Summons" because the United States and its employees are not subject to the waiver requirement.