

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHILIP ROSATI,

Plaintiff,

vs.

IGBINOSO, Chief Medical Officer,
California Department of Corrections and
Rehabilitation; and SUSAN HUBBARD,
Secretary, California Department of
Corrections and Rehabilitation,

Defendants.

Case No. 1:12-cv-01213-RRB

ORDER ON REMAND

This matter is again before this Court on remand from the U. S. Court of Appeals for the Ninth Circuit for further proceedings consistent with the opinion of that court.¹ The Court of Appeals has entered its mandate, re-vesting jurisdiction in this Court.² This Court dismissed the Complaint during the screening process.³ Consequently, the Complaint was neither served upon nor did Defendants enter an appearance in this Court. The record on appeal reflects that Kamala D. Harris, Attorney General for the State of California, appeared on behalf of Defendants Igbinoso and Susan Hubbard on appeal. Consequently, it does not appear that requiring service of the Complaint on the

¹ *Rosati v. Igbinoso*, — F.3d —, 2015 WL 3916977 (9th Cir. June 26, 2015) (per curiam).

² Docket 26.

³ Dockets 15, 16.

Defendants would serve any useful function; nor would it be in the interests of either justice or judicial efficiency to require such formalistic service.

The record also reveals that Plaintiff was represented on appeal by Jon W. Davidson and Peter C. Rem, Lamda Legal Defense and Education Fund, Ltd., 3325 Wilshire Blvd. Ste 1300, Los Angeles California 90010; and Alison Hardy, Prison Law Office, 1917 5th St., Berkeley, California 94710. Neither attorney has entered an appearance in this Court.

Accordingly, on before **September 4, 2015**, Defendants must serve and file a responsive pleading to the Complaint.

By copy of this Order, Jon W. Davidson and Peter C. Rem, Lamda Legal Defense and Education Fund, Ltd., and Alison Hardy, Prison Law Office, are requested to advise the Court and the Attorney General whether they, or either of them, intend to enter an appearance on behalf of Plaintiff. If an appearance is to be made, counsel is requested to do so without undue delay.

IT IS SO ORDERED this 23rd day of July, 2015.

S/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE