

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 KNOWN DOE PLAINTIFFS 1-4, et al., ) Case No.: 1:13-cv-00965 LJO JLT  
12 Plaintiffs, )  
13 v. ) ORDER CONTINUING SCHEDULING  
14 KERN COUNTY, et al., ) CONFERENCE  
15 Defendants. ) ORDER TO SHOW CAUSE WHY THE PROOF OF  
16 ) SERVICE AS TO DEBRA BOWEN SHOULD NOT  
17 ) BE STRICKEN  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

18 On June 24, 2013, Plaintiffs filed the instant action. (Doc. 1) The next day, the Court issued  
19 its order setting the mandatory scheduling conference to occur on May 3, 2013. (Doc. 3) In its order  
20 setting the mandatory scheduling conference, the Court advised counsel:

21 The Court is unable to conduct a scheduling conference until defendants have been  
22 served with the summons and complaint. Accordingly, plaintiff(s) shall diligently  
23 pursue service of summons and complaint and dismiss those defendants against whom  
24 plaintiff(s) will not pursue claims. Plaintiff(s) shall promptly file proofs of service of  
25 the summons and complaint so the Court has a record of service. **Counsel are referred  
to F.R.Civ.P., Rule 4 regarding the requirement of timely service of the complaint.  
Failure to timely serve summons and complaint may result in the imposition of  
sanctions, including the dismissal of unserved defendants.**

26 (Doc. 3 at 1-2, emphasis added) Despite this warning, Plaintiff has filed a proof of service only as to  
27 Debra Bowen, California's Secretary of State. (Doc. 11) No Defendant has appeared, other than  
28 Mary Bedard who has been dismissed from this action.

Moreover, the proof of service filed as to Ms. Bowen occurred on “Tracey Cody-Clerk.” (Doc. 11) The proof of service fails to detail where service occurred and the Court is aware that Ms. Cody is the Assistant Clerk of the Board for the County of Kern. There is no showing that Ms. Cody is authorized to accept service for Ms. Bowen (Cal. Gov. Code § 955.4 [“Service of summons in all actions on claims against the state shall be made on the Attorney General.”]), an elected officer of the State of California, or that she intended to do so.

Therefore, the Court **ORDERS**,

1. The scheduling conference, currently set on October 8, 2013, is continued to December 5, 2013 at 8:30 a.m. at the United States Courthouse at 510 19<sup>th</sup> Street, Bakersfield, CA;

2. **Within 14 days**, Plaintiffs are **ORDERED** to show cause in writing why the proof of service as to Debra Bowen, should not be stricken. Alternatively, within this same 14 day period, they may request that they be allowed to withdraw the proof of service (Doc.11);

3. **Plaintiffs are reminded of their service obligations under Fed. R. Civ. P. 4. Failure to comply may result in the imposition of sanctions, including the dismissal of unserved defendants.**

IT IS SO ORDERED.

Dated: **September 25, 2013**

**/s/ Jennifer L. Thurston**  
UNITED STATES MAGISTRATE JUDGE