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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 JEREMIAH VALENZUELA,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL  
15 SECURITY,

16 Defendant.

Case No. 1:15-cv-00291-SAB

ORDER DISCHARGING ORDER TO SHOW  
CAUSE

(ECF Nos. 8, 9)

TWENTY-DAY DEADLINE

17  
18 Plaintiff filed the complaint in this action challenging the final decision of the  
19 Commissioner of Social Security denying benefits on February 23, 2015, along with an  
20 application to proceed in forma pauperis. Plaintiff's application to proceed in forma pauperis  
21 was approved on February 26, 2015, and a summons and scheduling order were issued in this  
22 action on that same date. The scheduling order informed Plaintiff that "Except when other  
23 provision is made pursuant to an application to proceed in forma pauperis, within twenty (20)  
24 days of filing the complaint, appellant shall serve the summons, complaint, the notice and form  
25 of consent to proceed before a magistrate judge provided by Local Rule 305(a), and a copy of  
26 this order and file return of service with this court." (Scheduling Order ¶ 1, ECF No. 6.)

27 On April 8, 2015, after Plaintiff did not file a proof of service in compliance with the  
28 scheduling order, the Court issued an order directing Plaintiff to file a notice of status of service

1 within ten days. (ECF No. 7.) Plaintiff did not respond to the April 8, 2015 order.

2 On April 23, 2015, an order issued requiring Plaintiff to show cause why this action  
3 should not be dismissed for failure to comply with the orders of the Court. On April 30, 2015,  
4 Plaintiff filed a response stating that counsel was unable to open the summons, ECF No. 5, and  
5 had made several calls to the clerk's help desk to obtain assistance with the issue and eventually  
6 received an e-mail from Lori Wagers.

7 Counsel is advised that in practicing in the Eastern District counsel are expected to  
8 become familiar with the Local Rules and comply with the orders issued by the Court. The  
9 Court finds Plaintiff's response to the order to show cause to be without merit. The summons in  
10 this action issued on February 26, 2015. When Plaintiff encountered problems with opening the  
11 document several attempts were made to contact the help desk and after receiving an e-mail on  
12 April 16, 2015, to which they responded no reply has been received. However, based upon the  
13 information Plaintiff is providing, counsel is contacting the Central District for assistance in this  
14 action. Further the Court issued an order on April 8, 2015, and Plaintiff has provided no reason  
15 why he did not comply with the order.

16 While the Court is sympathetic to the issue that counsel experienced in attempting to  
17 view the document, the lack of diligence in addressing the problem is not taken lightly by this  
18 Court. Counsel needs to verify that it is the Eastern District instructions that are being used to  
19 access the Eastern District ECM/ECF system. The Court has checked with the Clerk's Office  
20 and they are aware of no other attorney that has experienced a similar problem which indicates  
21 that this may be a problem for counsel's IT department to resolve.

22 Counsel is directed to contact the Eastern District help desk at (866) 884-5525 if further  
23 assistance is needed. If Plaintiff continues to be unable to access the summons, he should  
24 contact the Eastern District Clerk's Office and request a copy of the document so service can be  
25 completed in compliance with the Court's scheduling order.

26 Based on Plaintiff's response, IT IS HEREBY ORDERED that the order to show cause,  
27 filed April 23, 2015 is DISCHARGED. Plaintiff is ordered to file the return of service within  
28 twenty days from the date of service of this order. Failure to comply with this order will result in

1 sanctions up to and including dismissal of this action.

2  
3 IT IS SO ORDERED.

4 Dated: May 1, 2015

  
UNITED STATES MAGISTRATE JUDGE