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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

CLAUDIA GUERRERO,  
Plaintiff,  
v.  
COMMISSIONER OF SOCIAL SECURITY.  
Defendant.

Case No. 1:16-cv-00573-SAB  
ORDER DISCHARGING ORDER TO  
SHOW CAUSE AND REQUIRING  
PLAINTIFF’S COUNSEL TO RESPOND  
WITHIN SEVEN DAYS  
(ECF No. 9)

Plaintiff Claudia Guerrero filed a Social Security complaint on April 23, 2016. (ECF No. 1.) On May 12, 2016, the summons and scheduling order issued. (ECF Nos. 7, 8.) Pursuant to the scheduling order, Plaintiff was required to effect service within twenty days and file a copy of the return of service. (ECF No. 8-1 at ¶ 1.) When Plaintiff failed to file a timely proof of service, on June 7, 2016, an order issued requiring Plaintiff to show cause in writing by June 15, 2016, why sanctions should not issue for the failure to comply with the scheduling order. On this same date, Plaintiff filed a certificate of service showing that on May 27, 2016 service documents were served on the United States Marshal.

First, counsel is advised that providing a certificate of service in response to an order to show cause is not good practice. In responding to the order to show cause, the Court expects an explanation from the party showing good cause for the failure to comply with the order of the Court. The Court notes that this is not the first case before the undersigned in which counsel has

1 failed to file a timely certificate of service. See Rios v. Commissioner, No. 1:14-cv-01346-SAB  
2 (E.D. Cal.) (summons issued August 29, 2014 and returned October 8, 2014); Hart v.  
3 Commissioner, No. 1:14-cv-00486-SAB (E.D. Cal.) (summons issued April 8, 2014 and returned  
4 July 30, 2014); Hill v Commissioner, No. 1:14-cv-01813-SAB (E.D. Cal.) (summons issued  
5 December 15, 2014 and returned February 2, 2015). While the Court is aware that a plaintiff  
6 proceeding in forma pauperis is entitled to have the United States Marshal serve the complaint,  
7 and the scheduling order makes an exception “when other provision is made pursuant to an  
8 application to proceed in forma pauperis,” none of these cases noticed that other provisions for  
9 service had been. Without notice of when the complaint is served, the Court is unable to  
10 determine when the administrative record is due in the action. Counsel’s failure to comply with  
11 the scheduling order is causing additional administrative work for the court.

12 The Court will discharge the order to show cause in this instance, but with the following  
13 advisement to counsel. Where the plaintiff is requesting the Marshal to serve the complaint, the  
14 documents should be forwarded to the Clerk of the Court so a docket entry is made reflecting  
15 service by the Marshal. If Plaintiff desires to forward the documents directly to the Marshal a  
16 notice should be filed informing the Court that the Marshal has been requested to serve the  
17 complaint. This should avoid any further orders to show cause issuing regarding the service of  
18 the complaint.

19 Accordingly, the order to show cause, filed June 7, 2016, is HEREBY DISCHARGED.  
20 Within seven days, Plaintiff’s counsel shall file a response to this order indicating that she  
21 understands and will comply with this order.

22 IT IS SO ORDERED.

23 Dated: June 17, 2016

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26 UNITED STATES MAGISTRATE JUDGE  
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