

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ISSAM ELIE KNICKERBOCKER,)	Case No.: 1:16-cv-01811 DAD JLT
)	
Plaintiff,)	ORDER DISCHARGING ORDER TO SHOW
)	CAUSE (DOC. 5)
v.)	
)	
UNITED STATES OF AMERICA, et al.,)	ORDER TO SHOW CAUSE WHY THE MATTER
)	SHOULD NOT BE DISMISSED
Defendants.)	
)	
)	

On December 1, 2016, Plaintiff filed the instant action. (Doc. 1) On December 5, 2016, the Court issued the summonses (Doc. 3) and its order setting the mandatory scheduling conference to occur on March 6, 2017. (Doc. 4) In its order setting the mandatory scheduling conference, the Court advised counsel:

The Court is unable to conduct a scheduling conference until defendants have been served with the summons and complaint. Accordingly, plaintiff(s) shall diligently pursue service of summons and complaint and dismiss those defendants against whom plaintiff(s) will not pursue claims. Plaintiff(s) shall promptly file proofs of service of 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.**

(Doc. 3 at 1-2, emphasis added) Because the plaintiff had not filed proofs of service of the summons and complaint and no defendant has appeared in the action, the Court ordered the plaintiff to show cause why the action should not be dismissed. (Doc. 5) In response, the plaintiff reported that he

1 “served” the defendant by serving the California Attorney General. (Doc. 6) He reports that, despite
2 the Attorney General notifying him of his error in later January 2017, he didn’t receive this
3 correspondence until late February.¹ *Id.* Moreover, despite clearly knowing he has failed to serve the
4 complaint and despite the passage of weeks since this discovery, still, he has not served the summons
5 and complaint and filed proof of service. This is unacceptable. Thus, the Court **ORDERS:**

6 1. The order to show cause, issued on February 15, 2017 is **DISCHARGED**;

7 2. No later than March 31, 2017, the plaintiff SHALL show serve the summons and
8 complaint and file proof of service or SHALL show cause in writing why this matter should not be
9 dismissed for his failure to prosecute this action, to comply with the Court’s orders and to comply with
10 Fed. R. Civ. P. 4(m).

11 **Failure to comply may result in the imposition of sanctions, including the dismissal of the**
12 **action.**

13
14 IT IS SO ORDERED.

15 Dated: March 21, 2017

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

17
18
19
20
21
22
23
24
25
26
27
28 ¹ Failing to “receive” one’s mail is not the same thing as it not having been delivered. While this litigation is pending, the plaintiff SHALL obtain his mail in a timely fashion or bear the consequences of failing to do so.