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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GRANT S. PARKISON et al.,

Plaintiffs,

No. CIV S-09-2257 DAD P

vs.

BUTTE COUNTY
SHERIFF'S DEP'T et al.,

Defendants.

ORDER

On June 23, 2010, the undersigned ordered plaintiffs to file a second status report explaining whether named defendant California Medical Group had been served. The court explained to plaintiffs' counsel that pursuant to Federal Rule of Civil Procedure 4(m), the court must dismiss the action without prejudice against any defendant that is not served within 120 days after the complaint is filed or order that service be made within a specified time. Plaintiffs' counsel did not respond to the order.

Accordingly, on August 13, 2010, the undersigned issued findings and recommendations recommending that defendant California Medical Group be dismissed without

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1 prejudice.¹ Therein the undersigned explained that the thirty day period given to plaintiffs for
2 filing of a second report on the status of service had long since expired, and plaintiffs' counsel
3 had failed to file any response to the court's June 23, 2010 order.

4 On August 17, 2010, plaintiffs' counsel filed an untimely response to the court's
5 order. Therein, plaintiffs' counsel explains that "the defendant was inadvertently omitted from
6 the caption and thus no summons was issued naming them as defendants to be served. Now
7 [that] the error has been discovered, they will be served immediately." Pls' Second Status Rept.
8 at 1.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The court's August 13, 2010 findings and recommendations (Doc. No. 19) are
11 vacated; and

12 2. Within twenty-one days of the date of this order, plaintiffs' counsel shall file a
13 report explaining whether defendant California Medical Group has been served with the
14 complaint. Counsel's failure to serve the defendant by this date or failure to file a report
15 regarding the status of service as required by this order will result in a recommendation that
16 defendant California Medical Group be dismissed from this case. Lastly, plaintiffs' counsel is
17 reminded that counsel has an obligation to prosecute this case with diligence and to timely abide
18 by this court's orders.

19 DATED: August 30, 2010.

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21 
22 _____
23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

23 DAD:sj
24 park2257.vac+sr(3)

25 _____
26 ¹ Although those findings and recommendations were signed on August 13, 2010, they
were not docketed until August 26, 2010.