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

ROBERT JULIUS CHATMAN et al.,

Plaintiffs,

No. 10-cv-0141 LKK JFM PS

vs.

BANK OF AMERICA HOME LOANS
et al.,

Defendants.

ORDER AND ORDER DIRECTING SERVICE

BY THE UNITED STATES MARSHAL

WITHOUT PREPAYMENT OF COSTS

_____/

Plaintiffs are proceeding pro se and in forma pauperis in this action. On March 30, 2010, the court ordered the United States Marshal to serve the complaint on the two named defendants in this action. The Marshal was unable to effect service on defendant “Bank of America Home Loans” because the name provided on the summons was incorrect.

By an order filed October 15, 2010, this court ordered plaintiffs to complete and return to the court, within twenty days, a summons with defendant Bank of America’s proper name. Because it appeared that plaintiffs did not comply with the court order, the undersigned recommended dismissal of this action. Plaintiffs filed a timely objection along with a properly completed summons. In light thereof, the findings and recommendations are hereby vacated.

Accordingly, IT IS HEREBY ORDERED that:

1 1. The December 10, 2010 findings and recommendations are vacated.
2 2. The status conference scheduled for January 6, 2011 is continued to April 14,
3 2011.

4 3. The Clerk of the Court is directed to forward the instructions for service of
5 process, the completed summons, copies of the complaint and copies of this order to the United
6 States Marshal.

7 4. Within ten days from the date of this order, the United States Marshal is
8 directed to notify defendant Bank of America Corporation of the commencement of this action
9 and to request a waiver of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and
10 28 U.S.C. § 566(c).

11 5. The U.S. Marshal is directed to retain the sealed summons and a copy of the
12 complaint in their file for future use.

13 6. The United States Marshal shall file returned waivers of service as well as any
14 requests for waivers of service that are returned as undelivered as soon as they are received.

15 7. If a waiver of service is not returned by a defendant within forty-five days
16 from the date of mailing the request for waiver, the United States Marshal shall:

17 a. Personally serve process and a copy of this order upon the defendant
18 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C.
19 § 566(c).

20 b. Within ten days after personal service is effected, the United States
21 Marshal shall file the return of service for the defendant, along with
22 evidence of any attempts to secure a waiver of service of process and of
23 the costs subsequently incurred in effecting service on said defendant.
24 Said costs shall be enumerated on the USM-285 form and shall include the
25 costs incurred by the Marshal's office for photocopying additional copies
26 of the summons and complaint and for preparing new USM-285 forms, if

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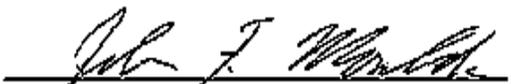
required. Costs of service will be taxed against the personally served defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

8. Defendant shall reply to the complaint within the time provided by the applicable provisions of Fed. R. Civ. P. 12(a).

9. Each party shall keep the court apprised of a current address at all times while the action is pending. Any change of address must be reported promptly to the court in a separate document captioned for this case and entitled "Notice of Change of Address." A notice of change of address must be properly served on other parties. Pursuant to Local Rule 182(d), service of documents at the record address of a party is fully effective. Failure to apprise the court of a change of address may result in the imposition of sanctions, which may include dismissal of the action.

10. The failure of any party to comply with this order, the Federal Rules of Civil Procedure, or the Local Rules of Court, may result in the imposition of sanctions including, but not limited to, dismissal of the action or entry of default.

DATE: January 3, 2011.


UNITED STATES MAGISTRATE JUDGE

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