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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT N. JOHNSON,

NO. CIV. S-10-1853 LKK/KJN

Plaintiff,

v.

CARL D. DRESSELHAUS,

O R D E R

Defendant.

_____ /

On July 16, 2010, plaintiff filed a complaint against defendant. A summons was issued the same day. The initial scheduling conference for this case has been continued once because plaintiff has not yet served defendant. The conference is now set for November 22, 2010. On November 8, 2010, plaintiff filed a status report indicating that he has still not yet served defendant.

Pursuant to Fed. R. Civ. P. 4(m), "If a defendant is not served within 120 days after the complaint is filed the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Pursuant to this rule, plaintiff should have served his complaint by November 16, 2010.

1 Plaintiff has not provided the court with any explanation for his
2 delay in serving defendant.

3 For the foregoing reasons the court orders as follows:

4 (1) Plaintiff must serve defendant within twenty-one (21)
5 days of the issuance of this order. Failure to do so,
6 without good cause, will result in dismissal of
7 plaintiff's complaint.

8 (2) The status conference scheduled for November 22, 2010 is
9 VACATED.

10 (3) The status conference is reset for February 7, 2011 at
11 10:00 a.m. Parties shall file status reports fourteen
12 (14) days prior to the status conference.

13 IT IS SO ORDERED.

14 DATED: November 17, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT