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

STEVEN G. DUNMORE, et al.,

Plaintiffs,

CIV. NO. S-11-2867 MCE GGH PS

vs.

JEREMY A. DUNMORE, et al.,

Defendants.

ORDER

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On January 13, 2012, this court ordered plaintiff to file and serve his second amended complaint within twenty-eight days. (Dkt. no. 19.) On April 4, 2012, the district court granted plaintiff ten days after that order in which to file a second amended complaint. (Dkt. no. 25.) The court’s order requiring timely serve and joint status report requires that service of process be completed within 120 days of October 31, 2011. (Dkt. No. 4.) Plaintiff has filed his second amended complaint; however, he has also filed an “ex parte application for order allowing service of summons by publication and by other means.” He seeks to serve approximately fourteen defendants, six individuals and eight entities, by publication, and has attached declarations supporting his failed attempts at personal service of these defendants.

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1 A plaintiff may serve an individual by “following state law for serving a summons  
2 in an action brought in courts of general jurisdiction in the state where the district court is located  
3 or where service is made.” Fed. R. Civ. P. 4(e)(1). Service of corporations, partnerships or  
4 associations are governed by Rule 4(h). In California, “[a] summons may be served by  
5 publication if upon affidavit it appears to the satisfaction of the court in which the action is  
6 pending that the party to be served cannot with reasonable diligence be served in another manner  
7 specified in this article and that either: (1) A cause of action exists against the party upon whom  
8 service is to be made or he or she is a necessary or proper party to the action....” Cal. Civ. Proc.  
9 Code § 415.50(a).

10 A determination that a claim exists against the unserved defendants, that they are  
11 necessary or proper parties, or that there is federal subject matter jurisdiction in this case would  
12 be premature at this stage of the proceedings. Therefore, plaintiff’s application will be denied  
13 without prejudice to its renewal after a dispositive motion has been filed and decided.

14 Accordingly, IT IS ORDERED that: Plaintiff’s ex parte application for order  
15 allowing service of summons by publication and by other means, filed April 16, 2012, (dkt. no.  
16 27), is denied without prejudice.

17 DATED: May 10, 2012

18 /s/ Gregory G. Hollows  
19 UNITED STATES MAGISTRATE JUDGE

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