UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA NATE WHITE, No. 2:13-cv-0626-KJN Plaintiff. v. ORDER COMMISSIONER OF SOCIAL SECURITY, Defendant. Plaintiff Nate White, represented by counsel, filed this social security action on April 1, 2013, and paid the filing fee. (ECF No. 1.) Presently pending before the court is plaintiff's request for the entry of default against the Commissioner. (ECF No. 7.) For the reasons discussed below, the court denies plaintiff's request without prejudice and orders further service on the Commissioner. In addition to serving the Commissioner itself, a plaintiff in a social security action is

In addition to serving the Commissioner itself, a plaintiff in a social security action is required to deliver a copy of the summons and complaint to the United States attorney for the district where the action is brought (i.e., the United States Attorney for the Eastern District of California), and to send a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. See Fed. R. Civ. P. 4(i)(1)(A) & (B), (2). According to the affidavit of the process server filed by plaintiff, plaintiff served the

| 1 | |
|---|--|
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |

Commissioner by personally delivering a copy of the summons and complaint to an individual named Mimi Taylor at 6401 Security Boulevard, Baltimore, MD 21235 on April 29, 2013. (ECF No. 5.) However, it appears that plaintiff did not also serve the United States Attorney for the Eastern District of California or the Attorney General of the United States at Washington, D.C., and that service of process thus has not been completed.

Moreover, the Commissioner has previously advised the court that, due to inherent delays when service is made upon the Commissioner in Baltimore, M.D., a copy of the summons and complaint should instead be sent by registered or certified mail to the Commissioner of Social Security, c/o Office of General Counsel, Region IX, 160 Spear Street, Suite 800, San Francisco, CA, 94105-1545. See Fed. R. Civ. P. 4(i)(2). Although plaintiff's counsel cannot be faulted for being unaware of this information, it possibly explains the delay encountered by plaintiff's counsel, in addition to the fact that plaintiff did not complete the other components for service of process on the Commissioner.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's request for default (ECF No. 7.) is DENIED WITHOUT PREJUDICE.
- 2. Within 28 days of this order, plaintiff shall complete service of process by serving the Commissioner, the United States Attorney for the Eastern District of California, and the Attorney General of the United States at Washington, D.C., as specified above and in the Federal Rules of Civil Procedure, with the complaint, summons, scheduling order, a copy of this order, and other appropriate case documents.
- 3. Within 28 days of this order, plaintiff shall file a declaration demonstrating that such service of process has been completed. The deadlines outlined in the scheduling order will track the date of such service.

IT IS SO ORDERED.

Dated: July 24, 2013

KENDALL J. NEWMAN

UNITED STATES MAGISTRATE JUDGE