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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAMBERT MILLS,  
  
  Plaintiff,  
  
  v.  
  
BANKERS LIFE AND CASUALTY  
COMPANY,  
  
  Defendant.

No. 2:14-cv-2322 MCE CKD PS  
  
ORDER

Defendant’s motion to dismiss came on regularly for hearing January 14, 2015. Plaintiff Lambert Mills appeared in propria persona. Jennifer Holly appeared for defendant. Upon review of the documents in support and opposition, upon hearing the arguments of counsel, and good cause appearing therefor, THE COURT FINDS AS FOLLOWS:

Defendant moves to dismiss under Federal Rules of Civil Procedure 12(b)(2) (lack of personal jurisdiction), 12(b)(4) (defective summons) and 12(b)(5) (insufficiency of service of process). Plaintiff has not filed any substantive opposition to the motion. Mailing copies of the complaint to defendant is insufficient service of process. Proper service of summons requires compliance with Federal Rule of Civil Procedure 4(h).<sup>1</sup>

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<sup>1</sup> That rule provides in pertinent part: “(h) **Serving a Corporation, Partnership, or Association.** Unless federal law provides otherwise or the defendant’s waiver has been filed, a domestic or

1 Plaintiff has not completed service of summons and defendant's motion is therefore well  
2 taken. However, in light of plaintiff's pro se status, the court will defer ruling on defendant's  
3 motion to dismiss and afford plaintiff an extension of time to properly serve the summons and  
4 complaint in this action.<sup>2</sup>

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff is granted an extension of time to February 13, 2015 to effectuate service of  
7 summons and complaint in compliance with Federal Rule of Civil Procedure 4(h) and to file the  
8 proof of said service required under Federal Rule of Civil Procedure 4(l). Plaintiff is cautioned  
9 that failure to timely serve defendant with summons and complaint and to file the proof of service  
10 will result in a recommendation that the motion to dismiss be granted.

11 2. Ruling on defendant's motion to dismiss (ECF No. 5) is deferred. The matter will  
12 stand submitted on February 13, 2015.

13 3. The status conference set for March 11, 2015 at 10:00 a.m. in courtroom no. 24 is  
14 confirmed. Status reports shall be filed no later than March 4, 2015.

15 Dated: January 14, 2015

16   
17 CAROLYN K. DELANEY  
18 UNITED STATES MAGISTRATE JUDGE

19 4 mills.oah

20  
21 foreign corporation, or a partnership or other unincorporated association that is subject to suit  
22 under a common name, must be served:

23 (1) in a judicial district of the United States:

24 (A) in the manner prescribed by Rule 4(e)(1) for serving an individual; or

25 (B) by delivering a copy of the summons and of the complaint to an officer, a  
26 managing or general agent, or any other agent authorized by appointment or by law to receive  
27 service of process and--if the agent is one authorized by statute and the statute so requires--by  
28 also mailing a copy of each to the defendant; or

(2) at a place not within any judicial district of the United States, in any manner prescribed  
by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i)." Fed. R. Civ.  
P. 4(h).

<sup>2</sup> Defendant has identified the authorized agent for service of process. See declaration of Thomas  
Kakos, ¶ 8 (ECF No. 5-2).