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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEAN O’NEAL,
Plaintiff,
v.
AUGUST JOHNSON, et al.,
Defendants.

No. 2:14-cv-2374 DB PS

ORDER

On July 25, 2016, defendant filed a motion for summary judgment and noticed the motion for hearing on September 2, 2016.¹ (Dkt. No. 105.) Defendant, however, mistakenly attempted to serve a copy of his motion on “Sean Michael O’Neal,” when plaintiff’s name is “Sean Matthew O’Neal.”² (Dkt. No. 107 at 2.) Defendant’s service was returned as “return to sender,” with a notation “no one by this name at this address.” (Id. at 5.)

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¹ The parties have consented to Magistrate Judge jurisdiction over this action pursuant to 28 U.S.C. § 636(c)(1). (Dkt. No. 16.)

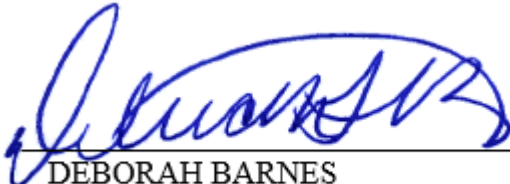
² Plaintiff alleges that this is not the first time he received mail from the defendant addressed to Sean Michael O’Neal, that on those prior occasions the mail was from the “bar association,” and that defendant’s counsel informed plaintiff that the mail was for an attorney in counsel’s office. (Dkt. No. 109 at 2.)

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Accordingly, IT IS HEREBY ORDERED that:

1. The September 2, 2016 hearing of defendant’s motion for summary judgment is continued to **September 30, 2016 at 10:00 a.m.** in Courtroom No. 27; and
2. Within seven days of the date of this order defendant shall properly serve plaintiff with a copy of defendant’s motion for summary judgment.³

Dated: August 17, 2016



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

³ The court anticipates no further errors with respect to defendant’s service on plaintiff.

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