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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONIA NELSON, KRISTOPHER  
PALLESEN, BRYAN GARCIA and  
NICKOLAS NELSON,

Plaintiffs,

v.

LOWE'S HOME CENTERS, INC. and  
DOES 1 through 50, inclusive,<sup>1</sup>

Defendants.

No. 2:15-CV-00092-KJM-KJN

~~PROPOSED~~ ORDER GRANTING  
DISMISSAL

In light of plaintiffs' request for dismissal (ECF No. 28) and Federal Rule of Civil Procedure 41(a)(2), IT IS HEREBY ORDERED that the claims and all causes of action of plaintiffs Kristopher Pallesen, Bryan Garcia, and Nickolas Nelson are DISMISSED without prejudice.

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<sup>1</sup> The Ninth Circuit provides “[plaintiffs] should be given an opportunity through discovery to identify [] unknown defendants” “in circumstances . . . ‘where the identity of the alleged defendant[] [is] not [] known prior to the filing of a complaint.’” *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (quoting *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)) (modifications in original). Federal Rule of Civil Procedure 4(m), as recently amended, provides for dismissal of defendants not served within ninety days of filing of the complaint unless plaintiff shows good cause. See *Glass v. Fields*, No. 1:09-00098, 2011 U.S. Dist. LEXIS 97604 (E.D. Cal. Aug. 31, 2011); *Hard Drive Prods. v. Does*, No. 11-01567, 2011 U.S. Dist. LEXIS 109837, at \*2–4 (N.D. Cal. Sept. 27, 2011). Plaintiff Tonia Nelson will be ordered to show cause why the court should not dismiss the “Doe” defendants.

1 Defendant's pending motion for summary judgment against plaintiffs Kristopher  
2 Pallesen, Bryan Garcia, and Nickolas Nelson (ECF No. 23) is hereby DENIED AS MOOT.

3 Plaintiff Tonia Nelson is hereby ORDERED, within fourteen (14) days of the date  
4 this order is filed, to show cause why the court should not dismiss the "Doe" defendants.

5 Additionally, all attorneys who wish to appear in the Eastern District of California  
6 must be admitted to practice or admitted to appear pro hac vice. See L.R. 180. Plaintiff's  
7 counsel, Erik Peterson, appears to not be admitted to the Bar of the Eastern District of California.  
8 Accordingly, plaintiff's counsel is hereby ORDERED, within seven (7) days of entry of this  
9 order, to show cause why he should not be sanctioned in the amount of \$250 for his failure to  
10 comply with the Local Rules. Alternatively, if plaintiff's counsel obtains admission to the Bar of  
11 the Eastern District of California within seven (7) days of entry of this order, the possibility of a  
12 sanction will be abated.

13 IT IS SO ORDERED.

14 DATED: May 9, 2016.

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18 UNITED STATES DISTRICT JUDGE  
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