

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KIMBERLY R. OLSON,
Plaintiff,
v.
HORNBOOK COMMUNITY
SERVICES DISTRICT, et al.,
Defendants.

No. 2:15-cv-00646-MCE-DMC-PS

ORDER

Plaintiff Kimberly R. Olson, who proceeds without counsel, initially filed this action on March 23, 2015 (ECF No. 1). On August 31, 2018, the assigned Magistrate Judge recommended that this matter be dismissed for failure to comply with both court orders and the provisions of Federal Rule of Civil Procedure 8 (ECF No. 17). Thereafter, on January 4, 2019, this Court rejected those findings and recommendations and deemed Plaintiff's Second Amended Complaint to be properly filed. Given that rejection, the Court, in exercising its discretion, will withdraw its reference to the Magistrate Judge and handle the remainder of this matter for all purposes.

The Court is in receipt of Plaintiff Olson's letter dated January 14, 2019 which states that no Defendants have yet been served and requests service by the U.S. Marshal given the fact that Plaintiff is proceeding in this matter *in forma pauperis* (ECF

1 No. 22). Given the lack of service to date, that portion of the Court's January 14, 2019
2 Order directing Defendants to file a responsive pleading within twenty (20) days after
3 that Order was filed is hereby stricken.

4 In addition, for the foregoing reasons, IT IS HEREBY ORDERED that:

- 5 1. The reference of this matter to the assigned Magistrate Judge in
6 accordance with Local Rule 302(c)(21) is hereby withdrawn, with the
7 undersigned to handle the remainder of this case for all purposes pursuant
8 to Rule 302(d).
- 9 2. Service of the Second Amended Complaint is appropriate for the
10 Defendants named herein.
- 11 3. The Clerk of Court is directed to issue forthwith all process pursuant to
12 Federal Rule of Civil Procedure 4.
- 13 4. The Clerk of Court shall send Plaintiff one USM-285 form and one
14 summons for each Defendant.
- 15 5. Plaintiff is advised that to effectuate service, the U.S. Marshal will require:
 - 16 a. One completed summons;
 - 17 b. One completed USM-285 form for each Defendant to be served;
 - 18 c. A copy of the complaint for each Defendant to be served, with an
19 extra copy for the U.S. Marshal.
- 20 6. Plaintiff shall supply the U.S. Marshal, within thirty (30) days from the date
21 this Order is filed, with all information needed by the U.S. Marshal to
22 effectuate service of process, and shall, within ten (10) days thereafter, file
23 a statement with the Court that such documents have been submitted to
24 the U.S. Marshal.
- 25 7. The U.S. Marshal shall serve process, with copies of this Court's
26 scheduling order and related documents, within ninety (90) days of receipt
27 of the required information from Plaintiff, without prepayment of costs.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 8. If a Defendant waives service, the Defendant is required to return the signed waiver to the U.S. Marshal. The filing of an answer or a responsive motion does not relieve a Defendant of this requirement, and the failure to return the signed waiver may subject a Defendant to an order to pay the costs of service by the U.S. Marshal.
- 9. The Clerk of Court shall serve a copy of this Order on the U.S. Marshal.
- 10. Failure to comply with this Order may result in any appropriate sanctions, including monetary sanctions and/or dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Dated: April 5, 2019


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE