

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
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAJ SINGH, KAREN SINGH,
Plaintiffs,
v.
WELLS FARGO BANK,
Defendant.

No. 2:15-cv-2664-JAM-EFB PS

ORDER

Plaintiffs were ordered to show cause why this case should not be dismissed for failure to effect service of process within the time prescribed by Federal Rule of Civil Procedure 4(m). ECF No. 4. In response, plaintiffs submitted a proof of service, indicating that on January 10, 2016, non-party Jason Smith delivered a copy of the summons and complaint to John Strumpf, the president and CEO of Wells Fargo Bank, and Mr. Strumpf’s assistant at 420 Montgomery Street, San Francisco, California. ECF No. 6 at 2. That proof of service, however, does not comply with Local Rule 210(b) and therefore is not sufficient to demonstrate that defendant was properly served. See E.D. Cal. L.R. 210(b) (providing that “[w]hen service is made by personal delivery, [the proof of service of process] shall show the hour, the particular address vicinity at which service was made, the name and address of the person served, and the name and address of the person making the service.”).

////

1 Accordingly, plaintiffs were ordered to appear before the court on August 3, 2016 to show
2 cause why this action should not be dismissed for failure to effect service of process in the time
3 prescribed by Rule 4(m) and/or failure to comply with the court's local rules. Plaintiffs
4 responded to that order by filing a new proof of service. ECF Nos. 11, 12. The corrected proof
5 of service identifies Jason Smith's address as 1200 North B Street Sacramento, California, which
6 is the address for the Salvation Army Shelter Services Center. ECF No. 12. It also indicates that
7 Jason Smith personally served John Strumpf, the President and CEO of Wells Fargo Bank, at 420
8 Montgomery St., 7th Floor, San Francisco, California on February 10, 2016 at 4:50 p.m. *Id.*

9 After review of the new proof of service, the court finds that an evidentiary hearing is
10 necessary to ascertain whether defendant was properly served.

11 Accordingly, it is hereby ORDERED that:

12 1. The August 3, 2016 show cause hearing is continued to September 7, 2016.

13 2. On September 7, 2016 at 10:00 a.m., an evidentiary hearing will be held regarding the
14 purported service of process performed by Jason Smith.

15 3. In addition to whatever other testimony or evidence plaintiffs wish to present, they
16 shall subpoena or otherwise produce Jason Smith for testimony at the September 7, 2016
17 evidentiary hearing.

18 4. The clerk shall serve a copy of this order and ECF No. 12 on Wells Fargo Bank's agent
19 for service of process at the following address:

20 Corporation Service Company
21 2710 Gateway Oaks Dr., Ste 150N
22 Sacramento, CA 95833

23 DATED: August 1, 2016.



24 EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE