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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONICA HOEFT,
Plaintiff,
v.
AL BALLON,
Defendant.

No. 2:16-cv-2615 CKD PS

ORDER AND ORDER DIRECTING
SERVICE BY THE UNITED STATES
MARSHAL WITHOUT PREPAYMENT OF
COSTS

Plaintiff is proceeding in this action pro se and in forma pauperis. On February 7, 2017, this action was dismissed without prejudice because plaintiff failed to timely file an amended complaint. ECF No. 15. After that order was filed, the Clerk’s office docketed an amended complaint that had been received the day prior to entry of the order. ECF No. 16. The court will therefore vacate the order dismissing the action.

The amended complaint names only Al Ballon as a defendant. Pursuant to plaintiff’s amended complaint, the Commissioner of Social Security will be dismissed as a defendant.

Although plaintiff has been granted leave to proceed in forma pauperis, that determination does not complete the required inquiry. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss the case at any time if it determines the allegation of poverty is untrue, or the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. The court cannot make this determination on the present

1 record. Therefore, the court reserves decision on these issues until the record is sufficiently
2 developed.

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. The order filed February 7, 2017 (ECF No. 15) is vacated. The Clerk of Court is
5 directed to reopen this case.

6 2. The Clerk of Court is directed to list on the court's docket Al Ballon as defendant. The
7 Commissioner of Social Security is dismissed pursuant to plaintiff's amended complaint.

8 3. The United States Marshal is directed to serve within ninety days of the date of this
9 order, all process pursuant to Fed. R. Civ. P. 4(i), including a copy of this order, without
10 prepayment of costs.

11 4. The Clerk of the Court shall send plaintiff one USM-285 form, one summons, and a
12 copy of the amended complaint (ECF No. 16).

13 5. Plaintiff is directed to provide to the United States Marshal, within twenty-eight days
14 from the date this order is filed, all information needed by the Marshal to effect service of
15 process, including all information required for proper service of summons under Federal Rule of
16 Civil Procedure 4(i) and shall file a statement with the court that said documents have been
17 submitted to the United States Marshal, along with a copy of the information provided to the
18 Marshal. The court anticipates that, to effect service, the U.S. Marshal will require at least:

19 a. One completed summons for defendant Ballon;
20 b. One completed USM-285 form for defendant Ballon;
21 c. One copy of the endorsed filed first amended complaint for service on
22 defendant Ballon plus any extra copies of the complaint required for proper service under Rule
23 4(i), with an extra copy for the U.S. Marshal; and

24 d. One copy of the instant order for service on defendant Ballon.

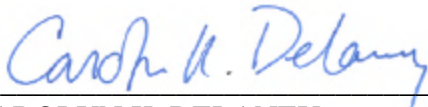
25 6. In the event the U.S. Marshal is unable, for any reason whatsoever, to effectuate
26 service on defendant Ballon within 90 days from the date of this order, the Marshal is directed to
27 report that fact, and the reasons for it, to the undersigned.

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7. The Clerk of the Court is directed to serve a copy of this order on the United States Marshal, 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030.

Dated: February 8, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

4 hoeft2615.vac.ser