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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAYNARD EDRALIN BUMAGAT, et al.,

Plaintiffs,

v.

TERRY SHILLINGER, et al.,

Defendants.

No. 2:17-cv-02008-TLN-GGH

ORDER

Plaintiff, proceeding in this action pro se, has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. An examination of plaintiff’s request and affidavit demonstrates that he is unable to finance the fees and costs associated with this case and the court will, therefor, GRANT his motion for in forma pauperis status.

Insofar as plaintiff may be entitled to relief if the claimed violation of constitutional rights is proved, defendants will be ordered to file a response to the Complaint.

Plaintiff is hereby notified, however, that although he is entitled to represent his own interests acting in pro se, he may not represent the interests of Lorna Mansalud and S.D.S. Only persons admitted to the Bar of this court may appear here to represent parties with exceptions not applicable to this case. See Eastern District of California Local Rule 180.¹ Attempts to appear as

¹ A copy of the Local Rules are available in the office of the Clerk of the Court, 501 “I” Street, 4th floor, Sacramento, CA 95814, or on line at www.caed.uscourts.gov.

1 counsel for a party without meeting the requirements of this Rule may result in penalties imposed
2 by the court. Id. at 180(5)(d). In terms of this case, plaintiff Monsalud may appear on her own
3 behalf, in pro se, but S.D.S., who is identified in the Complaint as a minor, can nor represent
4 himself and he cannot be a named plaintiff in the action. Johns v. County of San Diego, 114 F.3d
5 874, 876 (1997). Citing Cheung v. Youth Orchestra Foud. of Buffalo, Inc., 906 F.2d 59, 61 (2nd
6 Cir. 1990); see also Federal Rule of .Civil Procedure. 17(c).² Thus either an attorney who meets
7 the requirements of Rule 180, supra, must undertake S.D.S.’s representation or a guardian ad
8 litem must seek permission to represent S.D.S.

9 As a result of the foregoing, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff Maynard Edralin Bumagat’s Motion to proceed in forma pauperis is
11 GRANTED;
- 12 2. Plaintiff is directed to eliminate now identified plaintiff Lorna Monsalud from all
13 further filings unless Ms. Monsalud seeks pro se status or is represented by counsel’
- 14 3. Plaintiff is directed to eliminate now identified plaintiff S.D.S., a minor, from all
15 further filings unless a qualified representative is named for him;
- 16 4. Service on the named defendants is appropriate;
- 17 5. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is
18 directed to serve within ninety days of the date of this order, all process pursuant to Fed. R. Civ.
19 P. 4, including a copy of this court’s status order, without prepayment of costs; and the current
20 Order;
- 21 6. Plaintiff is directed to supply the U.S. Marshal, within 14 days from the date this
22 order is filed, all information needed by the Marshal to effect service of process, and shall file a
23 statement with the court that said documents have been submitted to the United States Marshal.
24 The court anticipates that, to effect service, the U.S. Marshal will require at least:

25 _____
26 ² Rule 17(c) reads as follows: (1) The following representatives may sue or defend on behalf of a
27 minor (A) a general guardian; (B) a committee; (C) a conservator; or (D) a like fiduciary.
28 (2) A minor . . . who does not have a duly appointed reprsentive may sue by a next friend or by a
guardian ad litem. The court must appoint a guardian ad litem – or issue another appropriate
order – to protect a minor or incompetent person who is unrepresented in an action.

- 1 a. One completed summons for each defendant;
2 b. One completed USM-285 form for each defendant;
3 c. One copy of the endorsed filed complaint for each defendant, with an extra
4 copy for the U.S. Marshal;
5 d. One copy of this court's status order for each defendant; and
6 e. One copy of the instant order for each defendant.

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

10 8. If the defendant waives service, he is required to return the signed waiver to the
11 United States Marshal. If the Marshal has already attempted personal service, the filing of an
12 answer or a responsive motion will not relieve a defendant from the potential obligation to pay
13 the costs of service pursuant to Federal Rule of Civil Procedure 4(d)(2).

14 9. The Clerk of the Court is directed to serve a copy of this order on the U.S. Marshal,
15 501 "I" Street, Sacramento, CA 95814, Tel. No. (916) 930-2030.

16 10. Plaintiff's failure to comply with this order may result in a recommendation that this
17 action be dismissed pursuant to Federal Rule of Civil Procedure 41(b) and Local Rules 110 and
18 183(a).

19 11. If the response to the complaint is a motion, plaintiff's opposition or statement of
20 non-opposition shall be filed and served within thirty (30) days of the service of the motion or
21 fourteen (14) days before the date on which the motion is scheduled to be heard, whichever is
22 sooner, and defendant may Reply seven(7) days thereafter;

23 **IT IS SO ORDERED.**

24 Dated: October 9, 2017

25 */s/ Gregory G. Hollows*
26 UNITED STATES MAGISTRATE JUDGE

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