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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KIRAN RAWAT, et. al,
Plaintiffs,
v.
TAMMY FERNANDES, et al.,
Defendants.

No. 2:17-cv-02100-KJM-KJN PS

ORDER

On July 19, 2018 at 10:00 a.m., the undersigned held a status (pre-trial) scheduling conference in this matter. (ECF No. 24.) Plaintiff Raj Singh, who proceeds without counsel, appeared on behalf of plaintiffs. Defendants have yet to appear. Plaintiffs’ status report for the hearing was filed five days late on July 17, 2019. (ECF No. 21.) After considering plaintiffs’ proofs of service (ECF Nos. 17–19), status report (ECF No. 21), and Mr. Singh’s representations at the hearing, it is apparent that defendants have not been properly served. However, in light of plaintiffs’ *pro se* status and the court’s desire to have the case resolved on its merits, plaintiffs are afforded one final opportunity to properly serve defendants. Plaintiffs are warned that failure to obey federal or local rules, or order of this court, will result in a recommendation that the case be dismissed.

Plaintiff Kiran Rawat, proceeding without counsel, commenced this action on October 10, 2017, and paid the filing fee. (ECF No. 1.) Plaintiff failed to properly serve defendants and

1 follow the court's orders on multiple occasions. (See ECF Nos. 3, 6, 8, 12, 13.) On May 4, 2018,
2 the court gave Ms. Rawat another opportunity to properly serve defendants. (ECF No. 13 at 1.)
3 Plaintiff was ordered to complete service of process by May 24, 2018. (Id.) A further status (pre-
4 trial scheduling) conference was set for July 19, 2018, and parties were ordered to file status
5 reports no later than July 12, 2018. (Id. at 2.) Plaintiff was admonished that "failure to obey
6 federal or local rules, or order of this court, may result in dismissal of this action." (Id. at 3.)

7 On June 4, 2018, plaintiff filed a first amended complaint, adding Raj Singh as an
8 additional *pro se* plaintiff. (ECF No. 15.) On June 15, 2018, plaintiffs returned executed
9 summonses, indicating that each defendant had been served on June 5, 2018. (See ECF No. 17-
10 19.) Plaintiffs' latest attempt at service is again deficient.

11 First of all, defendants were not served by May 24, 2018, as ordered. Additionally,
12 defendant Tammy Fernandes was allegedly served at 1615 Broadway, Fl 4, Oakland, CA 94612-
13 2171 (ECF No. 17), which is the address of the Law Offices of Andrew Wolff, P.C. See The Law
14 Offices of Andrew Wolff, P.C., <http://awolfflaw.com/contact-us/> (last visited on July 16, 2017).
15 Tammy Fernandes was apparently a client of Andrew Wolff at one time (see ECF No. 15 at 2),
16 but there is no indication that she has any current connection to Wolff or his firm.

17 Defendant Chris Beaty was allegedly served at 1515 Clay St., Oakland, CA 94612 (ECF
18 No. 19), which appears to be an old address for the Law Offices of Andrew Wolff, P.C. Compare
19 Tenants Together, <http://www.tenantstogether.org/resources/law-offices-andrew-wolff-pc> (last
20 visted July 16, 2017) with <http://awolfflaw.com/contact-us/>. However, Chris Beaty does not
21 appear to have any current affiliation with the Wolff firm, as he is not listed as an attorney or
22 employee on their website. See <http://awolfflaw.com/attorneys/>.

23 More importantly, plaintiffs failed to provide a status report on July 12, 2018 as ordered,
24 and none of the defendants have appeared in this matter, strongly indicating that service has not
25 been properly effectuated.¹

26 _____
27 ¹ Indeed, at the July 19, 2018 hearing, Mr. Singh was unable to provide any additional evidence to
28 demonstrate that defendants had been served. Moreover, plaintiffs admit that when attempting to
complete service, they did not provide all documents in this case to defendants. (See ECF No. 21
("almost all the documents in this case have been served on defendants").)

1 As a result, on July 17, 2018, the undersigned recommended that this case be dismissed
2 with prejudice pursuant to Federal Rule of Civil Procedure 41(b), and vacated the July 19, 2018
3 hearing. (ECF No. 20.) However, later on July 17, plaintiffs provided a tardy status report (ECF
4 No. 21) and a request for entry of default (ECF No. 22). As such, the court held the previously
5 vacated status conference. At the hearing, the court advised Mr. Singh that plaintiffs must follow
6 the Federal Rules of Civil Procedure and this court's orders. The court also explained that
7 plaintiffs would be afforded one final opportunity to serve defendants.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The July 17, 2018 order and findings and recommendations (ECF No. 20) are
10 VACATED.
- 11 2. Plaintiffs' request for entry of default (ECF No. 22) is DENIED without prejudice, as
12 premature.
- 13 3. The Clerk of the Court is directed to issue and send plaintiff one summons for each
14 defendant named in the first amended complaint (ECF No. 15). Plaintiffs shall
15 complete service of process on defendants named in the first amended complaint, and
16 provide the court with proof of service, by **August 16, 2018**. Plaintiff's proof of
17 service shall adequately demonstrate that defendants were properly served. **Failure to**
18 **effectuate service of process by this date will result in a recommendation of**
19 **dismissal of this action.** See Fed. R. Civ. P. 4(m). This is plaintiffs' fourth
20 opportunity to demonstrate that defendants have been properly served. (See ECF Nos.
21 3, 8, 13.) No further extensions or opportunities will be afforded.
- 22 4. **Failure to obey federal or local rules, or order of this court, will result in a**
23 **recommendation of dismissal of this action.** This court will construe pro se
24 pleadings liberally, but pro se litigants must comply with the procedural rules.
- 25 5. After the court has received adequate proof of service, the court will order status
26 reports and schedule a further status conference, if necessary.

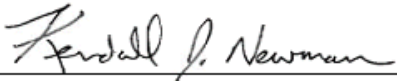
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IT IS SO ORDERED.

Dated: July 20, 2018


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE