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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SANDRA C. SAMUELIAN,
Plaintiff,
v.
U.S. TREASURY, et al.,
Defendants.

No. 2:18-cv-995-JAM-EFB PS

ORDER AND FINDINGS AND
RECOMMENDATIONS

A status (pretrial scheduling) conference was previously set for January 9, 2019. The order setting that conference directed plaintiff to complete service of process on all defendants within 90 days, and to serve a copy of the order concurrently with service of the summons and complaint. The order also directed the parties to file status reports fourteen days prior to the scheduling conference. ECF No. 7.

Plaintiff did not timely file a status report, nor did she file proofs of service demonstrating that defendants were properly served.¹ See Fed. R. Civ. P. 4(l) (requiring that proof of service be made to the court). Accordingly, the scheduling conference was continued to March 20, 2019, and plaintiff was directed to show cause why this action and/or any unserved defendants should not be dismissed for failure to effect service of process within the time prescribed by Rule 4(m)

¹ To date, none of the defendants have appeared in this action.

1 and/or failure to comply with court orders. ECF No. 35. Plaintiff was also ordered to file, by no
2 later than March 6, 2019, a status report setting forth the matters referenced in the court's July 31,
3 2018 order, including the status of service of process. *Id.* at 2. She was cautioned that failure to
4 comply with the order would result in a recommendation that this action be dismissed. *Id.*

5 In response, plaintiff filed a document stating, "I accept status conference hearing" on
6 March 20, 2019. ECF No. 37. But plaintiff did not demonstrate that defendants were properly
7 served, nor did she show cause why this action should not be dismissed for failure to timely effect
8 service of process. Given plaintiff's pro se status, the court declined to recommend dismissal of
9 this action and instead afforded plaintiff a final opportunity to complete service of process and
10 file the requisite proofs of service with the court. Thus, the scheduling conference was continued
11 to May 22, 2019, and plaintiff was directed to complete service of process on all defendants and
12 to file proofs of service by April 19, 2019. The court further ordered that the parties file status
13 reports fourteen days prior to the scheduling conference. ECF No. 42. Plaintiff was again
14 admonished that failure to comply with the court's order would result in a recommendation that
15 this action be dismissed.

16 In response, plaintiff filed seven different documents, none of which demonstrate that
17 service of process has been completed. ECF No. 43-49. One document states that plaintiff "will
18 accept show cause hearing" on May 22, 2019 (ECF No. 43), while another confirms plaintiff's
19 intent to appear on that date (ECF No. 44). The remaining filings include banking records, a
20 check, two civil cover sheets, and what appears to be a request to settle this action. ECF No. 45-
21 49.

22 It appears from the docket that plaintiff has still not served defendants despite ample time
23 to do so. Nor has plaintiff shown good cause for the failure to complete service of process despite
24 the opportunity to do so. Plaintiff has also been warned as to the consequences of those failures.
25 Accordingly, dismissal for failure to timely effect service of process is appropriate. *See Fed. R.*
26 *Civ. P. 4(m)* ("If a defendant is not served within 90 days after the complaint is filed, the court . . .
27 must dismiss the action without prejudice against that defendant or order that service be made
28 within a specified time.").

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Accordingly, it is hereby ORDERED that the May 22, 2019 scheduling conference is vacated.

Further, it is RECOMMENDED that this action be dismissed without prejudice for failure to complete service of process and the Clerk be directed to close the case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections within the specified time may waive the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

DATED: May 15, 2019.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE