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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEFRANTZE LUCAS NOEL,

Plaintiff,

v.

UNKNOWN,

Defendants.

No. 2:18-cv-01687-JAM-CKD PS

ORDER

Plaintiff DeFrantze Lucas Noel, who proceeds without counsel, commenced this action on June 8, 2018 and requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF Nos. 1, 2.) The court granted this motion, but simultaneously dismissed the action because the complaint did not state a claim under the American’s with Disabilities Act, and failed to name any defendants or explain why the defendants’ names are neither known nor ascertainable through reasonable inquiry. (See ECF No. 3.)

Plaintiff filed a first amended complaint on September 4, 2018, which alleges that defendants Theresa Sandstrum and Marie Murphy have prevented plaintiff from keeping his Welsh Corgi service dog, Vintage, at his apartment in violation of the Rehabilitation Act, the American’s with Disability Act, the Fair Housing and Employment Act, and the California Fair Employment and Housing Act, and the California Unruh Act. (See generally, ECF No. 7.)

1 Based on the limited record before the court, the court cannot conclude that plaintiff's
2 action is frivolous, that the complaint fails to state a claim upon which relief can be granted, or
3 that plaintiff seeks monetary relief from an immune defendant. The court reserves decision as to
4 plaintiff's claims until the record is sufficiently developed, and this order does not preclude
5 defendant from challenging plaintiff's complaint through a timely motion pursuant to Federal
6 Rule of Civil Procedure 12 or other appropriate method of challenging plaintiff's pleading.
7 Accordingly, the court orders service of the complaint on defendant.

8 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 9 1. The Clerk of Court shall add Theresa Sandstrum and Marie Murphy as defendants.
- 10 2. Service of the complaint is appropriate for defendants Theresa Sandstrum and
11 Marie Murphy.
- 12 3. The Clerk of Court is directed to issue forthwith all process pursuant to Federal
13 Rule of Civil Procedure 4.
- 14 4. The Clerk of Court shall send plaintiff one USM-285 form, one summons, this
15 court's scheduling order, and the forms providing notice of the magistrate judge's availability to
16 exercise jurisdiction for all purposes.
- 17 5. Plaintiff is advised that to effectuate service, the U.S. Marshal will require:
 - 18 a. One completed summons;
 - 19 b. One completed USM-285 form for each defendant to be served;
 - 20 c. A copy of the complaint for each defendant to be served, with an extra
21 copy for the U.S. Marshal; and
 - 22 d. A copy of this court's scheduling order and related documents for each
23 defendant to be served.
- 24 6. Plaintiff shall supply the U.S. Marshal, within 30 days from the date this order is
25 filed, with all information needed by the U.S. Marshal to effectuate service of process, and shall,
26 within 10 days thereafter, file a statement with the court that such documents have been submitted
27 to the U.S. Marshal.

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1 7. The U.S. Marshal shall serve process, with copies of this court's scheduling order
2 and related documents, within 90 days of receipt of the required information from plaintiff,
3 without prepayment of costs.

4 8. If a defendant waives service, the defendant is required to return the signed waiver
5 to the U.S. Marshal. The filing of an answer or a responsive motion does not relieve a defendant
6 of this requirement, and the failure to return the signed waiver may subject a defendant to an
7 order to pay the costs of service by the U.S. Marshal.

8 9. The Clerk of Court shall serve a copy of this order on the U.S. Marshal.

9 10. Failure to comply with this order may result in any appropriate sanctions,
10 including monetary sanctions and/or dismissal of the action pursuant to Federal Rule of Civil
11 Procedure 41(b).

12 Dated: October 3, 2018



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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