

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AUGUSTINE FALLAY,

No. C 08-2261 CRB

Plaintiff,

**ORDER VACATING HEARING RE
APPEAL BOND**

v.

SAN FRANCISCO CITY AND COUNTY,
et al.,

Defendants.

Defendants Tony Fu and Crystal Lei filed a joint motion for appeal bond pursuant to Federal Rule of Appellate Procedure 7. See dkt. 124. That motion is currently calendared for Friday, August 19, 2011. Id. Plaintiff Augustine Fallay has not filed an Opposition. Upon being contacted by the Court, Plaintiff stated that he had not been served with the motion. Defendants conceded that they did not file a proof of service into the correct docket, but on Tuesday, August 16, 2011, they hand-delivered to the Court a proof of service filed in another case, before another judge. See Case No. 3:11-cv-01814-RS dkt. 19. This document, the electronic copy of which does not include this case number, does not adequately demonstrate to the Court that Plaintiff was served with the motion. Accordingly, the hearing currently set for Friday, August 19, 2011, is VACATED. If Defendants would like to pursue their motion, they must re-notice it for at least 35 days hence, and they must

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1 properly serve the Plaintiff.

2 **IT IS SO ORDERED.**

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4 Dated: August 18, 2010

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE