

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL C. GARCIA,
Plaintiff,

No. C 10-2424 SI (pr)

ORDER FOR SERVICE OF PROCESS

v.

CITY OF SANTA CLARA; et al.,

Defendants.

On July 27, 2011, the court issued an Order Regarding (1) Second Amended Complaint, (2) Pauper Status, And (3) Representation. In that order, the court reviewed the second amended complaint and determined that it stated cognizable claims under 42 U.S.C. § 1983 and state law against the City of Santa Clara, Santa Clara Police Chief Stephen Lodge, Santa Clara Police Sergeant G. Hosman, Santa Clara Police Officer Christopher Bell, Santa Clara Police Officer Michael Carleton, Santa Clara Police Officer Alec Lange, and Marriott International, Inc., dba Marriott Hotel.¹ The order also directed plaintiff to tend to a problem with his *in forma pauperis* application and to provide an address at which the Marriott defendant could be served. The order further directed plaintiff's counsel David L. Wright to show cause why he should be permitted to represent plaintiff in light of the fact that he was not then authorized to practice law in California.

Thereafter, "Daniel C. Garcia" purporting to have "legal power of attorney" for plaintiff signed and sent to the court a letter on plaintiff's behalf. The letter stated that the full filing fee now had been paid, provided an address for service of the Marriott defendant, and stated that

¹Defendants City of Santa Clara and police chief Lodge already have appeared in this action.

1 attorney Wright had been discharged as counsel for plaintiff. Attorney Wright did not respond
2 to the order.

3 The action may move forward and defendants served with process. However, from this
4 point forward, plaintiff must sign all of his own filings. A party may appear *pro se* or a party
5 may be represented by an attorney-at-law, but a non-attorney may not appear or represent a *pro*
6 *se* litigant. Charles Garcia does not state that he is an attorney-at-law and therefore may not
7 legally represent plaintiff. *See Laurie v. Maxwell*, 2008 WL 894408 (D. Mont. 2008). The
8 signature requirements in Rule 11 of the Federal Rules of Civil Procedure imposes certain
9 obligations on an unrepresented party that are inconsistent with someone else signing the court
10 filing pursuant to a power of attorney. *Cf. In re. Harrison*, 158 B.R. 246 (Bankr. M.D. Fla.
11 1993) (nondebtor who signed debtor's statement did not have personal knowledge of the
12 truthfulness of the answer therein). Similarly, a document that must be signed under penalty of
13 perjury cannot be signed on the declarant's behalf by a person holding a power of attorney.
14 *See In re Sarfraz*, 2007 WL 7143085 (Bankr. N.D. Ga. 2007). Plaintiff must sign all of his
15 filings or they will be disregarded.

16 In light of the foregoing, and in order to move this action toward resolution:

17 1. The clerk shall issue a summons and the United States Marshal shall serve, without
18 prepayment of fees, the summons, a copy of the amended complaint and a copy of all the
19 documents in the case file upon the following defendants:

- 20 - Santa Clara Police Sergeant G. Hosman
- 21 - Santa Clara Police Officer Christopher Bell
- 22 - Santa Clara Police Officer Michael Carleton
- 23 - Santa Clara Police Officer Alec Lange
- 24 - Marriott International, Inc., dba Marriott Hotel.

25 2. The address provided by plaintiff for service on Marriott International, Inc., dba
26 Marriott Hotel is: CSC - Lawyers Incorporating Service, Suite 100, 2730 Gateway Oaks Drive,
27 Sacramento, CA 95833.


28 3. Each defendant must file an answer or notice of appearance in this action within
thirty days of being served with process.

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4. In light of attorney Wright's failure to respond to the order to show cause why he should be permitted to represent plaintiff, attorney Wright is now terminated as counsel for plaintiff. The clerk shall update the docket sheet to reflect that plaintiff is now representing himself. Since plaintiff will no longer be represented by attorney Wright, documents must now be served on plaintiff directly and not on attorney Wright.

IT IS SO ORDERED.

Dated: September 15, 2011



SUSAN ILLSTON
United States District Judge