

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREG HAYES,

No. C-11-1702 EMC

Plaintiff,

ORDER RE DEFENDANTS' RESPONSE

v.

(Docket No. 50)MUSA DAJANI, *et al.*,

Defendants.

In its order of December 21, 2011, the Court ordered Defendants to file a proof of service establishing that they served their opposition to the preliminary injunction on Mr. Hayes back in August 2011. *See* Docket No. 49 (order). Defendants have now filed a response to the Court's order. In their response, Defendants indicate that they e-filed their opposition on August 10, 2011. *See* Docket Nos. 18-19 (opposition and supporting declaration).


That Defendants e-filed their opposition, however, does not mean that Mr. Hayes was thereby served as a result. In fact, the electronic receipts for the filing indicates that the opposition and supporting papers had *not* been electronically mailed to Mr. Hayes. Thus, it was incumbent on Defendants to manually serve Mr. Hayes. *See generally* Gen. Order 45. **Defendants are advised that, as a general matter, pro se litigants in this Court must be manually served absent an order from the Court permitting participating in e-filing as registered ECF users.**

Fortunately, Defendants' error in this instance was not prejudicial to Mr. Hayes. As the Court has previously held, Mr. Hayes's motion for a preliminary injunction was without merit for various reasons -- *e.g.*, because the parklet that was built was not based on the copyrighted drawing

1 and because Mr. Hayes failed to show a likelihood of irreparable injury. The Court emphasizes that
2 its order denying the motion for a preliminary injunction simply means that the Court shall not stop
3 construction of and/or tear down the parklet at issue. The order does not resolve the issue of
4 whether or not there was copyright infringement based on Defendants' alleged use of the
5 copyrighted drawing to obtain the permit for the parklet.

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7 IT IS SO ORDERED.

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9 Dated: December 22, 2011

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12 EDWARD M. CHEN
13 United States District Judge
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