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UNITED STATES DISTRICT COURT
Northern District of California

TOM MCMILLIN,

No. C 11-3201 MEJ

Plaintiff,

ORDER RE: SERVICE

v.

ORDER CONTINUING CMC

FOSTER CITY, et al.,

Defendants.

On September 30, 2011, Plaintiff Tom McMillin filed a Status Report, indicating that although the Complaint and Summons in this case were sent out for service “almost immediately” after he filed the Complaint, he subsequently learned that the process server used was no longer licensed and had misrepresented his status as a licensed process server in San Mateo County to Plaintiff’s counsel. Dkt. No. 4. Plaintiff stated that the Complaint and Summons were transmitted to a different, licensed/bonded service entity, and that all named defendants should be served in the next five to seven days. *Id.* Based on Plaintiff’s representations, the Court continued the Case Management Conference to December 8, 2011. Dkt. No. 6.

It has now been over 60 days since Plaintiff stated that all defendants would be served, and over 150 days since he filed his Complaint, yet there is still no indication that any defendants have been served. Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Further, Plaintiff has failed to file any type of case management statement ahead of the December 8 Case Management Conference, which is in violation of the Court’s October 3, 2011 Order. Dkt. No. 6.

Accordingly, the Court hereby ORDERS Plaintiff to complete service of process by

1 December 15, 2011. Failure to complete service by this time without good cause shown shall result
2 in dismissal of all defendants not yet served. The Case Management Conference is CONTINUED to
3 January 19, 2012 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco,
4 California. The parties' joint case management statement shall be filed by January 12, 2012. Failure
5 to comply with this Order may result in the imposition of sanctions, including and up to dismissal of
6 this case.

7 **IT IS SO ORDERED.**

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9 Dated: December 2, 2011

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12 Maria-Elena James
13 Chief United States Magistrate Judge
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