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UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

GILBERT GRAY,

No. C 12-06239 LB

Plaintiff,

**ORDER CONTINUING THE INITIAL
CASE MANAGEMENT
CONFERENCE TO APRIL 25, 2013**

v.

OFFICE DEPOT, INC., et al.,

Defendants.

Plaintiff Gilbert Gray ("Plaintiff") instituted this action against Office Depot, Inc., ("Office Depot"), a Georgia corporation, and its agents, Steven Burns ("Mr. Burns") and Roger Weber ("Mr. Weber") (collectively, the "Defendants") in the Superior Court of California, County of Alameda, on April 30, 2012. Notice of Removal, ECF No. 1 at 2, 8. Plaintiff alleges premises liability against Office Depot and general negligence against all Defendants. *Id.* at 7-8. Plaintiff appears to have served Office Depot and Mr. Burns while the action was in state court, but he does not appear to have served Mr. Weber yet. *See generally Gray v. Office*, RG12628058. Mr. Burns and Office Depot (collectively, the "Removing Defendants") removed the action to this court on diversity grounds on December 6, 2012. Notice of Removal, ECF No. 1 at 2.

Federal Rules of Civil Procedure 4(m) and 81(c)(1) require a plaintiff to serve any defendant who had not been served at the time of removal (such as Mr. Weber) within 120 days of an action being removed. Fed. R. Civ. P. 4(m), 81(c)(1). Because this action was removed on December 6, 2012, Plaintiff has until April 8, 2013 to serve Mr. Weber.

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In light of this situation, the court **CONTINUES** the Initial Case Management Conference from March 14, 2013 to **April 25, 2013 at 10:30 a.m.** in Courtroom C, 15th Floor, 450 Golden Gate Avenue, San Francisco, California, 94102. The parties shall file their Case Management Statement no later than April 18, 2013.

IT IS SO ORDERED.

Dated: March 12, 2013



LAUREL BEELER
United States Magistrate Judge