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UNITED STATES DISTRICT COURT  
Northern District of California  
San Francisco Division

CLAYTON COLLINS,

No. C 13-01493 LB

Plaintiff,

v.

CITY OF OAKLAND, et al.,

Defendants.

**ORDER (1) DIRECTING MR. BAZILE  
AND MR. ACOSTA TO ANSWER OR  
OTHERWISE RESPOND TO MR.  
COLLINS'S COMPLAINT AND (2)  
REGARDING THE SERVICE OF  
OFFICER COCANOUR**

Plaintiff Clayton Collins, proceeding *pro se*, filed a complaint on April 3, 2013. He named 2 entities and 3 individuals as defendants, namely, the City of Oakland, the County of Alameda, Leo Bazile, Antonio Acosta, and Officer Rick Cocanour. Complaint, ECF No. 1. So far, both entity defendants and two of the individual defendants (Ms. Bazile and Mr. Acosta) have appeared in this action. The entity defendants have filed motions to dismiss Mr. Collins's complaint. Motion to Dismiss (Alameda), ECF No. 11; Motion to Dismiss (Oakland), ECF No. 12. Mr. Bazile and Mr. Acosta have yet to answer or otherwise respond to Mr. Collins's complaint. To make the record clear and provide a definite deadline, the court now **ORDERS** Mr. Bazile and Mr. Acosta to answer or otherwise respond to Mr. Collins's complaint **no later than Tuesday, October 29, 2013**. The court chooses this date because it is 21 days after they appeared in this action. *See* Consent (Acosta), ECF No. 47; Consent (Bazile), ECF No. 48; *cf.* Fed. R. Civ. P. 12 (generally requiring a defendant to answer or otherwise respond to a complaint within 21 days of being served).

It appears that Officer Cocanour, the third individual defendant, was not properly served with the

1 complaint and summons. According to a letter filed by Mr. Collins and a declaration filed Sergeant  
2 David Vandagriff of the Alameda County Sheriff's Office, it appears that Officer Cocanour was not  
3 a member of the Alameda County Sheriff's Office (as Mr. Collins alleges in his complaint) but  
4 instead was a member of the City of Alameda Police Department who served, at the time relevant to  
5 this action, as a member of Alameda County Sheriff's Sexual Assault Felony Enforcement Task  
6 Force ("SAFE Task Force"). Letter, ECF No. 51; Vandagriff Declaration, ECF No. 52 ¶¶ 3-5. This  
7 presents a problem here because Mr. Collins provided the Clerk of the Court (and therefore the U.S.  
8 Marshal, who served the complaint and summons) with the Alameda County Sheriff's Office's  
9 address for purposes of serving Officer Cocanour. *See* Issued Summons (Officer Cocanour), ECF  
10 No. 7-4. Thus, the U.S. Marshal served the complaint and summons for Officer Cocanour at the  
11 Alameda County Sheriff's Office (albeit at a different address than the one Mr. Collins provided).  
12 *See* Executed Summons (Officer Cocanour), ECF No. 21. But because Officer Cocanour was never  
13 a member of the Alameda County Sheriff's Office, service there was not proper.

14 The question, then, is what to do about this. The court recognizes that Officer Cocanour's  
15 participation in the SAFE Task Force made it difficult for Mr. Collins to identify his employer and  
16 provide the correct address to the Clerk of the Court for service. It also is unclear whether Officer  
17 Cocanour even works for the City of Alameda Police Department anymore; Sergeant Vandagriff's  
18 declaration states only that Officer Cocanour worked there in 1998 and 1999. Vandagriff  
19 Declaration, ECF No. 52 ¶ 4. To resolve this, the court **ORDERS** Mr. Collins to file a letter **by**  
20 **Tuesday, October 29, 2013** that provides the Clerk of the Court with a new address to serve Officer  
21 Cocanour. After he provides the new address, the court will direct the U.S. Marshal to attempt to  
22 serve Officer Cocanour at it. If Officer Cocanour still is unable to be served, the court will dismiss  
23 him without prejudice from this action as it will have been well past the 120-day deadline for  
24 service. *See* Fed. R. Civ. P. 4(m).

25 At this time, the hearing on the entity defendants' pending motions to dismiss remains on  
26 calendar for December 19, 2013 in Courtroom C, 15th Floor, United States District Court, 450  
27 Golden Gate Avenue, San Francisco, California, 94102.

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**IT IS SO ORDERED.**

Dated: October 18, 2013



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LAUREL BEELER  
United States Magistrate Judge