

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDGAR PERRY,

No. C 13-02369 LB

Plaintiff,

v.

CASHCALL, INC.; UNITED STATES
CONSUMER FINANCIAL PROTECTION
AGENCY,

Defendants.

**ORDER (1) DIRECTING THE UNITED
STATES MARSHAL TO SERVE
ADDITIONAL DEFENDANTS AND (2)
CONTINUING THE HEARING ON
CASHCALL'S MOTION TO DISMISS****[Re: ECF No. 25]**

Plaintiff Edgar Perry, who is proceeding *pro se*, filed a complaint against defendants Cashcall, Inc. and the United States Consumer Financial Protection Agency. Complaint, ECF No. 1. He also filed an application to proceed *in forma pauperis*. IFP Application, ECF No. 3. The court granted his application on June 10, 2013 and directed the U.S. Marshal to serve the complaint and summonses on both defendants. IFP Order, ECF No. 5. The U.S. Marshal served the complaint and summonses on Cashcall on June 19, 2013 and on the United States Consumer Financial Protection Agency on June 20, 2013. Executed Summonses (Cashcall & CFPA), ECF No. 27.

On July 3, 2013, Cashcall appeared and filed a motion to dismiss, *see* Motion, ECF No. 11. One week later, Mr. Perry filed a "Motion to Adjoin PFSA to this Action." Motion, ECF No. 14. Mr. Perry stated that the "PFSA" is Portuguese Fraternal Society of America. *Id.* at 1. He asked that the

1 court allow him “to introduce into evidence” certain correspondence he apparently mailed to the
2 PFSA. *Id.* The court construed Mr. Perry’s motion as one to file an amended complaint to add new
3 allegations and denied it without prejudice because he did not follow the procedures for doing so
4 under Rule 15.

5 Mr. Perry filed a First Amended Complaint on July 29, 2013. FAC, ECF No. 18. He still names
6 Cashcall as a defendant, but he drops the United States Consumer Financial Protection Agency as a
7 defendant. *Id.* at 2; *see* CALIFORNIA PRACTICE GUIDE: FEDERAL CIVIL PROCEDURE BEFORE TRIAL §§
8 8:1386 (amendment under Rule 15 may be used to drop a party), 8:1551 (amended complaint that
9 voluntarily drops a defendant named in the original complaint effectively dismisses that defendant
10 from the action). He also adds several additional parties as defendants, namely, the Portuguese
11 Fraternal Society of America; First Bank of California; and the State of California. *See* FAC, ECF
12 No. 18 at 2. Cashcall filed a motion to dismiss Mr. Perry's First Amended Complaint, and it
13 currently is set to be heard on September 19, 2013. Motion to Dismiss, ECF No. 25.

14 In light of the court granting Mr. Perry’s IFP Application and ordering the United States Marshal
15 to serve the original complaint and summonses, the court **ORDERS** the United States Marshal to
16 serve, without prepayment of fees, a copy of the First Amended Complaint, any amendments or
17 attachments, Mr. Perry’s IFP affidavit, and this order upon the following new defendants at the
18 following addresses:

19 PFSA (Portuguese Fraternal Society of America)
20 1120 East 14th Street
San Leandro, California 94577

21 First Bank of California
22 13830 San Pablo Avenue
San Pablo, California 94806

23 State of California, Kamala Harris, Attorney General
24 P.O. Box 903447
Sacramento, California 94203-4470

25 Furthermore, to allow these newly-added defendants to be served and respond to the First Amended
26 Complaint, the court **CONTINUES** the hearing on Cashcall’s motion to dismiss from September 19,
27 2013 to **November 7, 2013 at 9:30 a.m.** in Courtroom C, 15th Floor, United States District Court,
28 450 Golden Gate Avenue, San Francisco, California 94102.

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IT IS SO ORDERED.

Dated: August 21, 2013



LAUREL BEELER
United States Magistrate Judge