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UNITED STATES DISTRICT COURT
For the Northern District of California

UNITED STATES DISTRICT COURT
Northern District of California
San Francisco Division

CHARLES KINNEY,

No. C 14-02187 LB

Plaintiff,

**ORDER REGARDING PLAINTIFF'S
SERVICE OF THE COMPLAINT AND
SUMMONSES UPON DEFENDANTS**

v.

ERIC CHOMSKY, et al.,

Defendants.

On May 12, 2014, Plaintiff Charles Kinney filed a complaint against three Defendants: Eric Chomsky, David Marcus, and Peter Langsfeld. Complaint, ECF No. 1. One week later, he filed a First Amended Complaint naming those same three Defendants. First Amended Complaint, ECF No. 6. Mr. Kinney apparently served Mr. Langsfeld with the First Amended Complaint and summons, as Mr. Langsfeld has moved to change the venue of this action to the United States District Court for the Central District of California and to dismiss Mr. Kinney's First Amended Complaint. See Motion to Change Venue, ECF No. 8; Motion to Dismiss, ECF No. 14. These motions currently are set for hearing on August 7, 2014.

Still, Mr. Kinney has not filed any executed summons (or anything evidencing service), and it unclear whether Mr. Chomsky or Mr. Marcus have been served at all. Under Federal Rule of Civil Procedure 4(m), Mr. Kinney must serve all Defendants within 120 days from the date he filed his original complaint. In this instance, this means that he has until September 9, 2014 to serve Mr. Chomsky and Mr. Marcus. In light of this requirement, and Mr. Langsfeld's pending motions, the

1 court directs the following. If Mr. Kinney has served Mr. Chomsky or Mr. Marcus or both, he shall
2 file the executed summons for them (and Mr. Langsfeld) by **Monday, July 7, 2014**. If Mr. Kinney
3 has not served Mr. Chomsky or Mr. Marcus, he shall explain in writing by **Monday, July 7, 2014**
4 why he has not and whether he intends to do so. If Mr. Kinney does not intend to serve Mr.
5 Chomsky or Mr. Marcus, he shall voluntarily dismiss them from this action pursuant to Federal Rule
6 of Civil Procedure 41(a)(1)(A).

7 **IT IS SO ORDERED.**

8 Dated: July 1, 2014



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10 LAUREL BEELER
11 United States Magistrate Judge

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