

1 IN THE UNITED STATES DISTRICT COURT
2
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA

4
5 RICK MADSEN,

No. C 09-05457 SBA (PR)

6 Plaintiff,

**NOTICE REGARDING INABILITY TO
SERVE DEFENDANT WAHIDULAH**

7 v.

8 SUE E. RISENHOOVER, et al.,

9 Defendants.

10 Service has been ineffective on Defendant W. Wahidulah. The Court has been informed that
11 the Litigation Coordinator at Pelican Bay State Prison was "unable to locate this person for service."
12 (Apr. 8, 2011 Letter from Litigation Coordinator Celeste Schiffner at 1.)

13 While Plaintiff may rely on service by the United States Marshal, "a plaintiff may not remain
14 silent and do nothing to effectuate such service. At a minimum, a plaintiff should request service
15 upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has
16 knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). If the marshal is unable to
17 effectuate service and the plaintiff is so informed, the plaintiff must seek to remedy the situation or
18 face dismissal of the claims regarding that defendant under Federal Rule of Civil Procedure 4(m).
19 See Fed. R. Civ. P. 4(m) (providing that if service of the summons and complaint is not made upon a
20 defendant in 120 days after the filing of the complaint, the action must be dismissed without
21 prejudice as to that defendant absent a showing of "good cause"); see also Walker v. Sumner, 14
22 F.3d 1415, 1421-22 (9th Cir. 1994) (prisoner failed to show cause why prison official should not be
23 dismissed under Rule 4(m) because prisoner did not prove that he provided marshal with sufficient
24 information to serve official).

25 No later than **thirty (30) days** from the date of this Order, Plaintiff must provide the Court
26 with a current address for Defendant Wahidulah. Plaintiff should review the federal discovery rules,
27 Rules 26-37 of the Federal Rules of Civil Procedure, for guidance about how to determine the
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1 current address of this Defendant.

2 **If Plaintiff fails to provide the Court with the current address of Defendant Wahidulah**
3 **within the thirty-day deadline, all claims against this Defendant will be dismissed without**
4 **prejudice under Rule 4(m).**

5 IT IS SO ORDERED.

6 DATED: 6/13/11


SAUNDRA BROWN ARMSTRONG
United States District Judge

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1 UNITED STATES DISTRICT COURT
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4 RICK MADSEN,

5 Plaintiff,

6 v.

7 SUE E. RISENHOOVER et al,

8 Defendant.

Case Number: CV09-05457 SBA

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on June 15, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Rick Madsen E10400
16 Pelican Bay State Prison
17 5905 Lake Earl Drive
18 Crescent City, CA 95531

Dated: June 15, 2011

Richard W. Wiekling, Clerk
By: LISA R CLARK, Deputy Clerk