

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CARLOS A. ORTEGA,
Plaintiff,

No. C 09-05527 SBA (PR)

**NOTICE REGARDING INABILITY TO
SERVE DEFENDANT SALMA KAHN**

v.

DR. MARK RITCHIE, et al.,
Defendants.

United States District Court
For the Northern District of California

Service has been ineffective on Defendant Salma Kahn. The Court has been informed that Defendant Kahn "is no longer a [Santa Clara] County employee" and the Santa Clara County Counsel's Office is "unaware of her present mailing address." (Aug. 20, 2012 Letter from Deputy County Counsel Mark. F. Bernal at 1.)


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

1 No later than **twenty-eight (28) days** from the date of this Order, Plaintiff must provide the
2 Court with a current address for Defendant Kahn. Plaintiff should review the federal discovery
3 rules, Rules 26-37 of the Federal Rules of Civil Procedure, for guidance about how to determine the
4 current address of this Defendant.

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

8 IT IS SO ORDERED.

9 DATED: 4/3/13


SAUNDRA BROWN ARMSTRONG
United States District Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

4 CARLOS A. ORTEGA,

5 Plaintiff,

6 v.

7 SAN JOSE CITY OF et al,

8 Defendant.

Case Number: CV09-05527 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 April 2, 2013, 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 Carlos A. Ortega #09071890
16 Santa Clara County Corrections - San Jose
17 #CTL532
18 885 N. San Pedro Street
19 San Jose, CA 95110

20 Dated: April 2, 2013

Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk