

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

3 JOHN M. SCHOPPE-RICO,

No. C 11-01089 YGR (PR)

4 Plaintiff,

**ORDER DENYING PLAINTIFF'S  
 REQUEST FOR SERVICE BY U.S.  
 MARSHAL; AND GRANTING  
 PLAINTIFF AN EXTENSION OF TIME  
 TO PROVIDE REQUIRED  
 INFORMATION NECESSARY TO  
 LOCATE DEFENDANT B. JAIN**

5 v.

6 ROBERT A. HOREL, et al.,

7 Defendants.

8  
 9 Plaintiff, a state prisoner, filed the present *pro se* prisoner action under 42 U.S.C. § 1983.

10 Thereafter, the Court reviewed Plaintiff's Third Amended Complaint ("TAC") and issued its Order  
 11 of Service.

12 Service has been ineffective on Defendant B. Jain. In an Order dated September 24, 2013,  
 13 Plaintiff was directed to provide the Court with the required information necessary to locate this  
 14 Defendant. He was also informed that the failure to do so shall result in the dismissal of all claims  
 15 against this Defendant.

16 On October 18, 2013, Plaintiff filed a document entitled, "Motion for Marshals to  
 17 Serve/Effectuate Service on B. Jain," in which Plaintiff requests the Court to direct the U.S. Marshal  
 18 to serve Defendant Jain at two addresses Plaintiff has provided. (Docket No. 44.) The Court  
 19 DENIES Plaintiff's request to have the Court direct the U.S. Marshal to serve Defendant Jain  
 20 because it is the Court's practice to encourage Defendants to waive service pursuant to Rule 4 of the  
 21 Federal Rules of Civil Procedure, which requires them to cooperate in saving unnecessary costs of  
 22 service of the summons and complaint.

23 On October 22, 2013, Plaintiff filed a document entitled, "Response In Regards to Inability  
 24 to Serve Defendant Jain . . . ." (Docket No. 48.) Again, Plaintiff has provided the same two  
 25 addresses for Defendant Jain.

26 Also on October 22, 2013, the Clerk of the Court re-served Defendant Jain -- with a Notice  
 27 of Lawsuit and Request for Waiver of Service of Summons, two copies of the Waiver of Service of  
 28 Summons, and a copy of the TAC -- at both addresses provided by Plaintiff: a P.O. Box in Hayward

1 and the California Medical Board in Sacramento. To date, Defendant Jain has not returned a signed  
2 waiver of service of the summons, and the other served Defendants' attorney has not appeared on his  
3 behalf. However, the deadline to return the signed waiver is thirty days from the date the Notice and  
4 Request were sent, which is on November 21, 2013. That deadline has not yet passed.

5 On October 23, 2013, the Clerk received a letter from the Litigation Office at Pelican Bay  
6 State Prison ("PBSP"), which included the last known address of Defendant Jain. Because that  
7 address was labeled a "residential home" it was filed under seal. (Docket No. 49.) On the same  
8 date, the Clerk re-served Defendant Jain at that address by mailing him the same documents  
9 mentioned above. (Docket No. 50.) On November 7, 2013, the aforementioned mail sent to  
10 Defendant Jain was returned as undeliverable with a notation, "Not Deliverable as Addressed,  
11 Unable to Forward." (Docket No. 55.) Therefore, the Clerk has been unable to re-serve Defendant  
12 Jain at the last known address provided by the litigation office at PBSP.

13 Before the Court is Plaintiff's request for an extension of time to provide the Court with the  
14 required information necessary to locate Defendant Jain. (Docket No. 53.)

15 Having read and considered Plaintiff's request, and good cause appearing,

16 IT IS HEREBY ORDERED that Plaintiff's request for an extension of time is GRANTED  
17 (Docket No. 53). The time in which Plaintiff may provide the Court with more current information  
18 necessary to locate this Defendant will be extended up to and including **December 16, 2013**.

19 If the Clerk is unable to successfully effectuate service on Defendant Jain at the two  
20 addresses provided previously by Plaintiff -- the P.O. Box in Hayward and the California Medical  
21 Board in Sacramento -- and if Plaintiff fails to provide the Court with more current information  
22 necessary to locate this Defendant by the December 16, 2013 deadline, then all claims against this  
23 Defendant will be dismissed.

24 This Order terminates Docket Nos. 44 and 53.

25 IT IS SO ORDERED.

26 DATED: November 15, 2013

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

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