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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICK MISSUD,
Plaintiff,
v.

No. C 11-1856 PJH

ORDER TO SHOW CAUSE

SAN FRANCISCO SUPERIOR COURT,
et al.,
Defendants.

United States District Court
For the Northern District of California

TO PLAINTIFF PATRICK MISSUD:

YOU ARE HEREBY ORDERED TO APPEAR ON OCTOBER 5, 2011, AND SHOW CAUSE why the above-entitled action should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Plaintiff, an attorney representing himself, filed the complaint on April 18, 2011, against San Francisco Superior Court, Judge Charlotte Woolard, Court Approved Mediator Michael Carbone, ADR Services Inc., and Does 1 through 200.

On July 18, 2011, plaintiff filed a case management statement in which he stated that "the summons for this case has never been issued nor served, and therefore the Defendants have not appeared, participated in discovery, met, or conferred with the Plaintiff." Doc. no. 7 at 1. Plaintiff requested that the initial case management conference set for July 28, 2011, be continued "to allow for either: the filing of a first amended complaint, or service of the original complaint." Id. at 3. The court continued the case management conference to September 15, 2011. Doc. no. 8.

1 More than 120 days have passed since plaintiff filed the complaint. It appears from
2 the docket, however, that plaintiff has not presented to the clerk a summons for issuance,
3 pursuant to Federal Rule of Civil Procedure ("FRCP") 4(b). Further, no proof of service has
4 been made to the court pursuant to FRCP 4(l).

5 Under FRCP 4(m), the court must dismiss an action if the defendant is not served
6 within 120 days after the complaint is filed, unless "the plaintiff shows good cause for the
7 failure," in which case the court "must extend the time for service for an appropriate period."
8 Here, the complaint was filed more than 120 days ago, and the defendants still have not
9 been served. Therefore, plaintiff Patrick A. Missud IS HEREBY ORDERED TO SHOW
10 CAUSE IN WRITING why this action should not be dismissed for the failure to serve
11 defendants within 120 days of filing the complaint.


12 Plaintiff must file a written response to the order to show cause by September 16,
13 2011. Failure to respond to this show cause order may result in the dismissal of this action
14 pursuant to FRCP 4(m) and 41(b). Plaintiff may not serve defendants without first showing
15 good cause for failing to comply with the time limit for service pursuant to FRCP 4(m).

16 The hearing on the order to show cause will be held on October 5, 2011, at 9:00
17 a.m., in Courtroom 3, 3rd Floor, Federal Building, 1301 Clay Street, Oakland, California.
18 The case management conference set for September 15, 2011 is hereby vacated.

19 Plaintiff has filed motions to compel reconsideration of an order of the superior court.
20 Doc. nos. 9, 11. Those motions are DENIED for failure to serve and notice the motions
21 pursuant to Civil Local Rule 7-2.

22 **IT IS SO ORDERED.**

23
24 Dated: August 19, 2011



PHYLLIS J. HAMILTON
United States District Judge