

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

3 ALBERT C. BURGESS, JR.,

No. C 11-01898 SBA (PR)

4 Plaintiff,

**ORDER TO SHOW CAUSE WHY
CLAIMS AGAINST UNSERVED
NAMED DEFENDANTS SHOULD
NOT BE DISMISSED**

5 v.

6 EBAY, INC., et al.,

7 Defendants.
/

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9 Plaintiff, a state prisoner, has filed this instant pro se civil action, alleging both state and
10 federal law violations. He has paid the full filing fee. In his complaint, Plaintiff names the
11 following Defendants: eBay, Inc.; Paypal, Inc.; Google, Inc.; Visa International, Inc.; Mastercard
12 International, Inc.; Charlotte Observer Publishing Co., Inc.; and Danny L. Durham. Plaintiff seeks
13 monetary damages.

14 To date, Plaintiff has not filed a proof of service on any of the Defendants named above.

15 Rule 4(m) of the Federal Rules of Civil Procedure provides:

16 If service of a summons and complaint is not made upon a defendant within 120 days
17 after the filing of the complaint, the court, upon motion or on its own initiative after
18 notice to the plaintiff, shall dismiss the action without prejudice as to that defendant
or direct that service be effected within a specified time; provided that if the plaintiff
shows good cause for the failure, the court shall extend the time for service for an
appropriate period.

19 Fed. R. Civ. P. 4(m). Here, Plaintiff's complaint has been pending for over 120 days and thus,
20 absent a showing of "good cause," claims against the unserved defendants are subject to dismissal
21 without prejudice. See Fed. R. Civ. P. 4(m).

22 Recognizing the fact that he is an incarcerated pro se litigant, the Court finds good cause
23 exists to extend the service deadline under Rule 4(m). Within **thirty (30) days** from the date of this
24 Order, Plaintiff shall file proof that he has served the named Defendants. The failure to do so will
25 result in the dismissal of all claims against these named Defendants without prejudice.

26 Even if a prisoner pays the fee and serves the complaint on his own, the Court is still
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1 required to review the action before it can proceed. See 28 U.S.C. § 1915A(a) (federal courts must
2 engage in a preliminary screening of pro se prisoner cases). Once Plaintiff has filed proof that he
3 has served the named Defendants, the Court will screen the complaint in a separate written order.

4 It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed
5 of any change of address and must comply with the Court's orders in a timely fashion. Failure to do
6 so may result in the dismissal of this action for failure to prosecute, pursuant to Federal Rule of
7 Civil Procedure 41(b).

8 Extensions of time are not favored, though reasonable extensions will be granted. Any
9 motion for an extension of time must be filed no later than **fifteen (15) days** prior to the deadline
10 sought to be extended.

11 IT IS SO ORDERED.

12 DATED: 2/9/12


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALBERT C. BURGESS, JR.,

Plaintiff,

v.

EBAY INC. et al,

Defendant.

Case Number: CV11-01898 SBA

CERTIFICATE OF SERVICE

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

That on February 10, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Albert C. Burgess 88539-071
Low Security Correctional Institution
P.O. Box 999
Butner, NC 27509

Dated: February 10, 2012

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