

United States District Court
Northern District of California

LEWIS CHARLES LEHNUS,

Plaintiff,

v.

CITY OF UNION CITY, et al.,

Defendants.

Case No.: CV 14-00204-KAW

ORDER TO SHOW CAUSE WHY CASE
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE

United States District Court
Northern District of California

Lewis Charles Lehnus ("Plaintiff") proceeds *pro se* in this action against the City of Union City and the City of Union City Police Department ("Defendants").

On January 21, 2014, Defendants filed a motion to dismiss. (Defs.' Mot., Dkt. No. 6.) Pursuant to Civil Local Rule 7-3, Plaintiff's opposition was due on February 7, 2014. As Plaintiff did not file an opposition by that deadline, the Court ordered Plaintiff (1) to show cause why his case should not be dismissed for failure to prosecute, and (2) file either an opposition to the motion to dismiss or a statement of non-opposition to the motion to dismiss. (Feb. 14, 2014 Order to Show Cause, Dkt. No. 13.) Plaintiff was to file a written response to the order to show cause and either an opposition or a statement of non-opposition to the motion to dismiss by no later than March 7, 2014. (*Id.*)

Plaintiff did not file either document by that deadline, but he did inform the Court that he was having issues receiving his mail and that he had not received any filings in this case, including the order to show cause, which had been originally mailed to him, at his correct address, on February 14, 2014. (*See* Certificate of Service, Dkt. No. 13-1.)

On March 28, 2014, Plaintiff filed a response to the order to show cause, in which he indicated that he was looking for an attorney and seeking assistance through a local lawyer referral service. (Pl.'s Response, Dkt. No. 14.) Based on Plaintiff's response and the issues he

1 was experiencing with his mail service, the Court discharged the order to show cause on March
2 31, 2014. (Mar. 31, 2014 Order, Dkt. No. 15.) In the order, the Court put Plaintiff on notice that
3 he is responsible for taking whatever steps are necessary to ensure that he has a reliable address
4 where he can receive correspondence regarding this case and advised him that he can request
5 permission to file and receive papers electronically pursuant to Civil Local Rule 5-1. The Court
6 also ordered Plaintiff to file, within 30 days, a status report stating whether he had found an
7 attorney willing to represent him in this matter. (*Id.*) As of the filing of this order, Plaintiff has
8 not done so. Nor has Plaintiff filed anything else with the Court indicating his intent to proceed
9 with this case.

10 Accordingly, the Court again orders Plaintiff to show cause why this case should not be
11 dismissed for failure to prosecute. Plaintiff shall file a written response to this order to show
12 cause and file either an opposition to the motion to dismiss or a statement of non-opposition to the
13 motion. The response to this order to show cause and the opposition or non-opposition should be
14 filed as separate documents by no later than June 11, 2014. Failure to timely both documents may
15 result in dismissal of this action for failure to prosecute. *See* Judge Westmore's General Standing
16 Order ¶ 21 ("The failure of the opposing party to file a memorandum of points and authorities in
17 opposition to any motion shall constitute consent to the granting of the motion.").

18 To aid in his compliance, Plaintiff may wish to consult a manual the Court has adopted to
19 assist *pro se* litigants in presenting their case. This manual, and other free information, is
20 available online at: <http://cand.uscourts.gov/proselitigants>.

21 Furthermore, as Plaintiff has not consented to the undersigned's jurisdiction pursuant to 28
22 U.S.C. § 636(c), Plaintiff shall complete the attached consent/declination form and file it with the
23 Court by no later than June 4, 2014.

24 IT IS SO ORDERED.

25 Dated: May 21, 2014


KANDIS A. WESTMORE
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

v. Plaintiff(s)

 Defendant(s).

Case No. C

CONSENT OR DECLINATION
TO MAGISTRATE JUDGE
JURISDICTION

INSTRUCTIONS: Please indicate below by checking **one** of the two boxes whether you (if you are the party) or the party you represent (if you are an attorney in the case) choose(s) to consent or decline magistrate judge jurisdiction in this matter. Sign this form below your selection.

Consent to Magistrate Judge Jurisdiction

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

OR

Decline Magistrate Judge Jurisdiction

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case and I hereby request that this case be reassigned to a United States district judge.

DATE: _____

NAME: _____

COUNSEL FOR
(OR "PRO SE"): _____

Signature