

\*E-Filed 10/27/09\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GRACE M. HONESTO,

No. C 09-03350 RS

Plaintiff,

**ORDER DENYING RENEWED  
MOTION REQUESTING SERVICE  
OF PROCESS BY UNITED STATES  
MARSHAL**

v.

STATE OF CALIFORNIA and ARNOLD  
A. SCHWARTZENEGGER,

Defendants.

Plaintiff Grace Honesto, proceeding in *pro se*, renews her motion under Rule 4(c)(3) of the Federal Rules of Civil Procedure for an order directing the United States marshal to serve summons and complaint in this matter, at taxpayers' expense. Honesto has provided 16 summonses, with copies of her complaint, that she wishes to have served on various individuals, including assorted state court judges, attorneys general, district attorneys, prison officials, and former governors. Although most, if not all, of these individuals are mentioned in Honesto's "statement of facts" that the Court has deemed to be the operative complaint in this action, the only defendants of record are the two listed by Honesto on her Civil Cover Sheet, namely the State of California, and its present governor, Arnold Schwarznegger.

While the summonses are not complete in that Honesto failed to list her own address on them, she has provided an address for each person she wishes to have served. However, Honesto

1 apparently continues to envision that the United States marshal will locate the various individuals'  
2 home addresses and serve them there, particularly those who no longer hold public office.

3 Honesto misconstrues the purposes of Rule 4(c)(3), and the United States marshal's role  
4 thereunder. In an appropriate case the Court may, in its discretion, order the marshal to serve  
5 summons and complaint at an address or addresses provided by a plaintiff. The marshal cannot, at  
6 public expense, function as an investigator to assist a private litigant in locating defendants. Nor in  
7 any event would it be appropriate to order the marshal to serve a complaint on persons not named as  
8 defendants therein.<sup>1</sup>

9 The Court's prior order denying Honesto's motion without prejudice noted that she had not  
10 submitted any summons to be served. Although she has now substantially complied with that  
11 requirement, she has not made any new showing as to why service at taxpayer expense is necessary  
12 and proper. As before, the only basis for her request is her claim that she does not know how to  
13 locate the best addresses for serving all the individuals she wishes to have served, which, as noted in  
14 the prior order and further explained above, is not sufficient. Under Rule 4(c)(2) service may be  
15 carried out by any person over the age of 18 who is not a party to the action. Honesto thus may  
16 either choose to hire a professional process server at her expense, or find someone over the age of  
17 18 to carry it out as a favor to her. The motion is denied.

18 IT IS SO ORDERED.

19 Dated: 10/27/09



RICHARD SEEBORG  
UNITED STATES MAGISTRATE JUDGE

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24 <sup>1</sup> The Court recognizes that Honesto's complaint, liberally construed, appears intended to include  
25 these additional individuals as defendants, although it is not apparent that a cognizable claim has  
26 been or even could be stated against all of them. In any event, the present defendants of record are  
27 only the State of California and Governor Arnold Schwarzenegger. Should Honesto wish to pursue  
28 claims against additional individuals, she must file an amended complaint which plainly identifies  
such persons as defendants in the caption (in substantially the same form as the caption on this  
order) and which plainly sets out the facts as to why she believes each such person is liable to her.

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**THIS IS TO CERTIFY THAT A HARD COPY OF THIS ORDER WAS MAILED TO:**

Grace M Honesto  
11010 Orleans River Court  
Rancho Cordova, CA 95670

DATED: 10/27/09

/s/ Chambers Staff  
Chambers of Magistrate Judge Richard Seeborg