

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

LIBYAN JAMAHIRIYA  
BROADCASTING CORPORATION,

CASE NO. 5:10-cv-05432 EJD

**ORDER DENYING EX PARTE REQUEST  
TO SUSPEND ACTIVITY IN CASE;  
ORDER TO SHOW CAUSE**

Plaintiff(s),

v.

MAHER ADLY FADEL,

[Docket Item No. 27]

Defendant(s).

**I. EX PARTE REQUEST TO SUSPEND ACTIVITY IN CASE**

Presently before the court is the ex parte request of Plaintiff Libyan Jamahiriya Broadcasting Corporation ("Plaintiff") for an order "suspending" this proceeding. See Docket Item No. 27. In support of this request, Plaintiff states that (1) it has been unable to locate Defendant Maher Adly Fadel ("Defendant") for service, and (2) Plaintiff is unable to effectively participate in this action. With regard to the second statement, Plaintiff contends that Executive Order 13566 prohibits United States persons from engaging in business with Plaintiff - a company owned by the Libyan government - thereby rendering representation by their current counsel impossible.

Having reviewed this request in conjunction with the history of this action, the court has determined that Plaintiff's request should be denied for failure to demonstrate good cause.

First, the court notes the instant matter is Plaintiff's third request for relief based on its failure to serve Defendant, the first two requests resulting in the continuance of case management conferences. See Docket Item Nos. 19, 21, 23, 24. But although being allowed additional time, Plaintiff has still been unable to locate and properly serve Defendant since this action was filed in December, 2010. It is unclear what recent efforts Plaintiff has made to effectuate such service as

1 none are noted in this request, but it not likely that service on Defendant, who Plaintiff believes  
2 resides in Egypt, can be imminently accomplished due to recent developments in the Middle East.

3 Second, the fact that Plaintiff has not provided detail as to when, if ever, Plaintiff will be  
4 excluded from Executive Order 13566, or when Plaintiff's counsel can obtain a waiver of the effects  
5 of such order, renders Plaintiff's instant request unsupportable. The court understands the  
6 difficulties presented here, but simply cannot "suspend" a case which has not been served and  
7 indeed cannot be prosecuted under circumstances that are unlikely to change in the near future.

8 Accordingly, Plaintiff's request is DENIED.

## 9 II. ORDER TO SHOW CAUSE

10 In light of the discussion above, the court also finds it expedient to issue an Order to Show  
11 Case regarding service in this case.

12 Rule 4(m) of the Federal Rules of Civil Procedure provides in pertinent part:

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

21 More than 120 days have elapsed since Plaintiff filed the complaint. Thus, Plaintiff shall, no  
22 later than October 31, 2011, show cause in writing why it has failed to accomplish service of the  
23 Summons and Complaint on Defendant within 120 days of filing the Complaint to comply with  
24 subsections (f) and (m) of Federal Rule of Civil Procedure 4. No hearing will be held on the order to  
25 show cause unless otherwise ordered by the court.

26 Plaintiff is notified that the court will dismiss this action if Plaintiff fails to comply  
27 with this Order or otherwise fails to show good cause as directed above. The Case Management  
28 Conference scheduled for October 14, 2011, is VACATED.

**IT IS SO ORDERED.**

Dated: October 11, 2011

  
EDWARD J. DAVILA  
United States District Judge