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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

AF HOLDINGS LLC,

Plaintiff,

v.

DOES 1-135,

Defendants.

Case No.: 11-CV-03336

ORDER TO SHOW CAUSE

On July 7, 2011, Plaintiff AF Holdings LLC (“AFH”) filed its original complaint in this matter, which was originally assigned to Magistrate Judge Ryu. ECF No. 1. The case was subsequently reassigned to Judge Fogel as the presiding judge and Magistrate Judge Lloyd as the referral judge. On July 14, 2011, AFH filed an *ex parte* application for leave to take limited discovery prior to a Rule 26 conference. ECF No. 8. Magistrate Judge Lloyd granted this application on August 2, 2011, permitting AFH to serve subpoenas on certain Internet Service Providers (“ISPs”) to obtain information identifying the Doe Defendants so that AFH could complete service of process on them. ECF No. 10. Judge Lloyd’s order allowed AFH to immediately serve subpoenas on ISPs to obtain identifying information for each Doe Defendant, including name, address, telephone number, email address, and media access control information. *Id.* at 4-5. The order gave the ISPs 30 days to serve subscribers and gave subscribers 30 days from the date of service in which to object to the subpoenas. *Id.* at 5. If the subscriber failed to object,

1 the ISP was required to produce, within 10 days, the information responsive to the subpoena to  
2 AFH. *Id.* The matter was reassigned to the undersigned on September 27, 2011. ECF No. 20.

3 196 days have passed since the filing of the original complaint and more than 150 days  
4 have passed since the issuance of Judge Lloyd's expedited discovery order, but no proof of service  
5 has been filed.

6 Federal Rule of Civil Procedure 4(m) requires a plaintiff to serve a defendant within 120  
7 day after it files the complaint. A court must dismiss a case without prejudice if a plaintiff has not  
8 complied with Rule 4(m), unless the plaintiff shows good cause for its failure to serve defendant.  
9 Fed. R. Civ. P. 4(m).

10 Under Rule 4(m), AFH was required to have filed proof of service by November 4, 2011.  
11 AFH did not. Accordingly, the Court ORDERS AFH to show cause why this action should not be  
12 dismissed for failure to serve the Doe Defendants as required by Rule 4(m) by February 9, 2012.  
13 *See, e.g., Patrick Collins Inc. v. Does 1-1219*, No. 10-04468-LB (N.D. Cal. Aug. 29, 2011) (Beeler,  
14 M.J.) (issuing order to show cause). The Court will hold a hearing on AFH's response on February  
15 15, 2012, at 2:00 p.m., in conjunction with the case management conference set for that date.  
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18 **IT IS SO ORDERED.**

19  
20 Dated: January 19, 2012



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LUCY H. KOH  
United States District Judge