

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AF HOLDINGS LLC,

Plaintiff,

v.

JOHN DOE,

Defendant.

Case No.: 12-CV-02394-LHK

ORDER CONTINUING ORDER TO
SHOW CAUSE HEARING

On January 11, 2013, the Court ordered Plaintiff to show cause why this case should not be dismissed because the Complaint in this matter was filed approximately 7 months ago and, despite being granted leave to take expedited discovery to discover Defendants' name, Plaintiff has not identified or served Defendant. ECF No. 27 ("OSC"). Under Federal Rule of Civil Procedure 4(m), Plaintiff was required to serve Defendant within 120 days of filing the Complaint. The order to show cause hearing is set for January 23, 2013. *See id.*

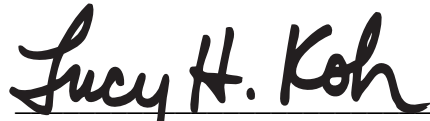
On January 17, 2013, Plaintiff filed a response to the OSC. ECF No. 28. In Plaintiff's response, Plaintiff states that Plaintiff has recently discovered that the subscriber whose account was used to download Plaintiff's copyrighted material is a "governmental entity." *Id.* at 1. Plaintiff states that Plaintiff "is currently in discussions with legal counsel for the governmental entity, and hopes to soon have a better idea of how to move forward with the instant action." *Id.*

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In order to give Plaintiff additional time to obtain the name of the Doe Defendant, the Court hereby CONTINUES the hearing on the OSC from January 23, 2013 to March 6, 2013 at 2:00 p.m. Plaintiff is ordered to file an additional response to the OSC on February 27, 2013 updating the Court on the status of Plaintiff's discussion with the governmental entity. Plaintiff is advised that if Plaintiff has not served the Defendant by February 27, 2013 and/or cannot demonstrate good cause as to why this case should not be dismissed, the Court will dismiss Plaintiff's case with prejudice.¹

IT IS SO ORDERED.

Dated: January 22, 2013



LUCY H. KOH
United States District Judge

¹ The original OSC did not state whether dismissal would be with or without prejudice. This Order clarifies that dismissal will be with prejudice.