

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHARLES WANG,
Plaintiff,
v.
TAYLOR THOMSON, et al.,
Defendants.

Case No. [14-cv-02388-BLF](#)

**ORDER TO SHOW CAUSE AS TO
WHY THIS ACTION SHOULD NOT BE
DISMISSED FOR FAILURE TO SERVE
REMAINING DEFENDANTS**

On October 9, 2014, Plaintiff filed an amended Complaint (“FAC”) in the above-captioned action, naming as Defendants Taylor Thomson, D. Systrom, Dr. Hesse, Dr. Rhee, Dr. Matola, Dr. Madoff, and Frances West, along with Massachusetts General Hospital (as “Mass General Hospital”) and “MGH Attending ICU medical physicians and staff.” See FAC, ECF 32 at 1.

Defendant Massachusetts General Hospital moved to dismiss for lack of personal jurisdiction, which the Court granted, with prejudice, on December 19, 2014. On January 16, 2015, despite no judgment being issued by the Court in this case, Plaintiff filed a notice of appeal of the Court’s Order dismissing Defendant Massachusetts General Hospital. See ECF 44.

A review of the electronic filings in this action shows that Plaintiff has not served his FAC on any of the remaining defendants. Federal Rule of Civil Procedure 4(m) requires that a party be served within 120 days of the filing of the operative complaint:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—*must dismiss the action without prejudice* against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court *must* extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m) (emphasis added).

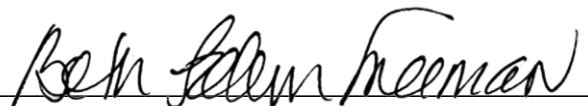
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Court HEREBY ORDERS Plaintiff to (1) provide a showing that he has effected service on the individual defendants in this action prior to February 6, 2015, 120 days from the date he filed his FAC, or (2) show cause as to why his failure to serve the individual defendants should be excused, and why the Court should extend time for him to effect service.

Plaintiff's response shall be limited to five (5) pages, and shall be due to the Court no later than March 9, 2015. If Plaintiff fails to respond, the Court shall issue an order dismissing this action against the individual defendants. *See Cabellero v. Gonzalez*, 2009 WL 3876293, at *2 (dismissing an action without prejudice when Plaintiff failed to respond to the Court's order to show cause regarding his failure to serve the individual defendants).

IT IS SO ORDERED.

Dated: February 9, 2015


BETH LABSON FREEMAN
United States District Judge