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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHAEL E BOYD,
Plaintiff,
v.
UNITED STATES DEPARTMENT OF
TREASURY, et al.,
Defendants.

Case No. [15-cv-03494-BLF](#)

**(1) ORDER DENYING PLAINTIFF'S
NOTICE OF DELAY OF SUBMISSION
AND ISSUANCE OF SUMMONS AND
(2) ORDER TO SHOW CAUSE WHY
CASE SHOULD NOT BE DISMISSED
FOR FAILURE TO PROSECUTE**

Plaintiff filed this action on July 29, 2015. ECF 1. On December 2, 2015, Plaintiff filed a notice of delay of submission of and issuance of summons. ECF 13. According to Plaintiff, his ongoing appeal of an order in the U.S. Bankruptcy Court for the Southern District of New York may cause “delays in the time it will take for Plaintiff to submit to the Court the Summons for issuance in this case.” *Id.*

The Federal Rule of Civil Procedure do not contemplate an indefinite and indeterminate delay in the service of process. *See* Fed. R. Civ. P. 4(m). In fact, the newly amended Federal Rules of Civil Procedure seek to reduce the delay in the early stages of litigation by reducing the time to serve a defendant to 90 days. *Id.* Furthermore, it is not clear to the Court, and Plaintiff does not explain, why Plaintiff’s involvement in a bankruptcy action in the U.S. Bankruptcy Court for the Southern District of New York would cause potential delays in the service of process for this action.

Plaintiff has not complied with Fed. R. Civ. P. 4(m) requiring defendants to be served within 120 days after the complaint is filed. Plaintiff has also not shown good cause for the failure. Accordingly, the Court ORDERS Michael E. Boyd TO SHOW CAUSE why this case should not be dismissed for failure to prosecute. Plaintiff shall submit a written response **on or**

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before January 12, 2016 and a hearing shall be held on January 21, 2016 at 9:00 a.m. In the alternative, if Plaintiff obtains summons and serves them on Defendants **on or before** January 12, 2016, the Court will dissolve the order to show cause.¹ The Court advises Plaintiff that a failure to respond to the order to show cause or to effect service of process on Defendants by January 12, 2016 will result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

Dated: December 7, 2015


BETH LABSON FREEMAN
United States District Judge

¹ Ordinarily, the Court would only give Plaintiff thirty days to effect service of process. However, since Plaintiff is not an electronic filer, the Court is giving Plaintiff an additional five days for a total of thirty-five days.