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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GARY MIDDLE RIDER,  
Plaintiff,  
v.  
MOVING SOLUTIONS, INC,  
Defendant.

Case No. 17-CV-04015-LHK

**ORDER TO SHOW CAUSE WHY CASE  
SHOULD NOT BE DISMISSED FOR  
FAILURE TO PROSECUTE**

The Court issues an order to show cause why this case should not be dismissed for failure to prosecute because Plaintiff has failed to comply with Federal Rules of Civil Procedure 4(m) and 26(f). First, Rule 4(m) states:

If a defendant is not served within 90 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.

The complaint in this case was filed on July 17, 2017. ECF No. 1. On October 20, 2017, Plaintiff filed a case management statement representing that his process server had served the wrong party but had also “served the Defendant only last week.” ECF No. 13. However, as of

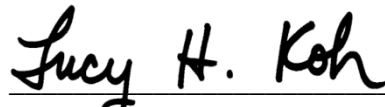
1 December 7, 2017, Plaintiff has failed to file a certificate of service and an executed summons.  
2 Defendant has not yet appeared in the case. More than 90 days have elapsed since the filing of the  
3 complaint.

4 Second, Plaintiff has failed to file a joint case management statement 7 days in advance of  
5 the Initial Case Management Conference set for December 13, 2017 at 2 p.m., as required under  
6 Federal Rule of Civil Procedure 26(f) and Civil Local Rule 16-9(a).

7 Plaintiff is hereby ordered to show cause why this case should not be dismissed pursuant to  
8 Rule 4(m) for failure to effect timely service and pursuant to Rule 26(f) and Civil Local Rule 16-  
9 9(a) for failure to file a joint case management statement. Plaintiff shall respond in writing to this  
10 order by December 11, 2017. A hearing on this order to show cause is hereby scheduled for  
11 December 13, 2017, at 2:00 p.m. If Plaintiff fails to respond in writing and fails to appear at the  
12 hearing, the Court will dismiss this case for failure to prosecute.

13 **IT IS SO ORDERED.**

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15 Dated: December 7, 2017



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17 LUCY H. KOH  
18 United States District Judge

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