

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 08-cv-02813-REB-CBS

JOSEPH T. MECCA,

Plaintiff,

v.

USA,  
MICHAEL J. STARKEY,  
JOHN A. JOHNSON,  
JAMES TERRIO,  
JACK MARKUSFELD, and  
JOHN CHO,

Defendants.

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**ORDER DISCHARGING ORDER TO SHOW CAUSE**

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**Blackburn, J.**

The matter before me is plaintiff's **Response to Order To Show Cause, Doc. 21** [#23] filed March 27, 2009. By his response, plaintiff acknowledges that he has no evidence to refute the averments made in John A. Johnson's **Motion To Dismiss** )[#6] filed February 11, 2009), that he is not the John A. Johnson who is named in the summons and complaint. Plaintiff, therefore, does not object to dismissing the improperly served John A. Johnson, without prejudice should it come to light that he is the intended defendant.

**THEREFORE, IT IS ORDERED** as follows:

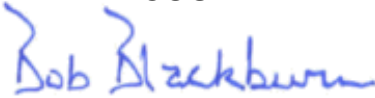
1. That the **Order To Show Cause** [#21] filed March 16, 2009, is

**DISCHARGED;**

2. That the **Motion To Dismiss** [#6] filed February 11, 2009, is **GRANTED**;
3. That the John A. Johnson who was served with a copy of the summons and complaint on or about February 6, 2009, is **DISMISSED WITHOUT PREJUDICE** from this lawsuit;
4. That the Clerk of the Court **SHALL SERVE** a copy of this order on Mr. John A. Johnson at the address reflected in his Motion, *viz.*, 100 Grinnell Street, Colorado Springs, CO 80911-2216; and
5. That plaintiff's shall remain obligated to serve the John A. Johnson intended to be named as a defendant in this action within the time and manner prescribed the Federal Rules of Civil Procedure.

Dated April 1, 2009, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge