

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 13, 2016

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DENNY GOYNE and FELISHIA
GOYNES,

No. 2:15-CV-0312-SMJ

Plaintiff,

**ORDER GRANTING MOTION TO
DISMISS**

v.

WELLS FARGO BANK, N.A.,

Defendant.

Before the Court, without oral argument, is Defendant Wells Fargo’s Motion to Dismiss, ECF No. 6. Defendant asks the Court to dismiss the action because, among other issues, Plaintiffs failed to effectuate proper service of process upon Well Fargo.

Federal courts lack the power to assert personal jurisdiction over a defendant unless the procedural requirements of effective service of process are satisfied. *Omni Capital Int’l, Ltd. v. Rudolf Wolff & Co., Ltd.*, 484 U.S. 97, 104 (1987). Service is therefore not only a means of notifying a defendant of the commencement of an action against him, but “a ritual that marks the court’s assertion of jurisdiction over the lawsuit.” *Okla. Radio Assocs. v. FDIC*, 969 F.2d

1 940, 943 (10th Cir.1992). Consequently, courts have uniformly held a judgment is
2 void where the requirements for effective service have not been satisfied.” *Combs*
3 *v. Nick Garin Trucking*, 825 F.2d 437, 442 & n. 42 (D.C.Cir.1987).

4 Federal Rules of Civil Procedure Rule 4 requires that the summons and
5 complaint to be delivered, through personal service, upon each named defendant.
6 A defendant’s actual notice of the litigation does not cure defects in service—
7 service of process in accord with FRCP 4 is still required. *Mann v. Castiel*, 681
8 F.3d 368, 373 (DC Cir. 2012) (“defendant’s knowledge complaint filed not
9 sufficient to establish court’s personal jurisdiction”).

10 Here, the Goynes failed to properly serve Wells Fargo with the summons
11 and complaint and have not complied with FRCP 4 to request Wells Fargo’s
12 waiver of service. Because there was insufficient service of process, the Goynes’
13 complaint is dismissed.

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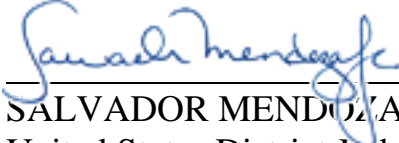
1 Accordingly, **IT IS HEREBY ORDERED:**

- 2 1. Defendant's Motion to Dismiss, **ECF No. 6**, is **GRANTED**.
- 3 2. All claims are **DISMISSED WITHOUT PREJUDICE**, with all
- 4 parties to bear their own costs and attorneys' fees.
- 5 3. All pending motions are **DENIED AS MOOT**.
- 6 4. All hearings and other deadlines are **STRICKEN**.
- 7 5. The Clerk's Office is directed to **CLOSE** this file.

8 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order

9 and provide copies to all counsel.

10 **DATED** this 13th day of April 2016.

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SALVADOR MENDOZA, JR.

13 United States District Judge

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