

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

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KYLE LYDELL CANTY,

Plaintiff,

v.

CITY OF SEATTLE, *et al.*,

Defendants.

Case No. C16-1655-RAJ-JPD

ORDER DIRECTING PERSONAL  
SERVICE BY UNITED STATES  
MARSHAL OF SECOND AMENDED  
COMPLAINT

This is a civil rights action brought under 42 U.S.C. § 1983. Plaintiff is proceeding with this action *pro se* and *in forma pauperis*. The Court, having reviewed plaintiff’s second amended complaint, hereby ORDERS as follows:

(1) Service by United States Marshal.

The United States Marshal shall personally serve the City of Seattle and King County by delivering copies of the summons and plaintiff’s second amended complaint (Dkt. 38), and copies of this Order, to the Mayor of the City of Seattle and to the Chief Executive of King County, in accordance with Rule 4(j)(2) of the Federal Rules of Civil Procedure. The Clerk shall issue summons and assemble the necessary documents to effect this personal service.

ORDER DIRECTING PERSONAL  
SERVICE BY UNITED STATES  
MARSHAL - 1

1           (2)    Response to Complaint

2           Within **thirty (30) days** after service, defendants City of Seattle and King County shall  
3 file and serve answers to the second amended complaint, or motions permitted by Rule 12 of the  
4 Federal Rules of Civil Procedure.

5           (3)    Filing and Service by Parties, Generally

6           All attorneys admitted to practice before this Court are required to file documents  
7 electronically via the Court’s CM/ECF system. Counsel are directed to the Court’s website,  
8 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.  
9 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original  
10 with the Clerk. All filings, whether filed electronically or in traditional paper format, must  
11 indicate in the upper right hand corner the name of the magistrate judge to whom the document  
12 is directed.

13           For any party filing electronically, when the total of all pages of a filing exceeds fifty  
14 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as  
15 necessary) shall be delivered to the Clerk’s Office for chambers. The chambers copy must be  
16 clearly marked with the words “Courtesy Copy of Electronic Filing for Chambers.”

17           Any document filed with the Court must be accompanied by proof that it has been served  
18 upon all parties that have entered a notice of appearance in the underlying matter.

19           (4)    Motions, Generally

20           Any request for court action shall be set forth in a motion, properly filed and served.  
21 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
22 part of the motion itself and not in a separate document. The motion shall include in its caption

1 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
2 consideration upon the Court's motion calendar.

3 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for  
4 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),  
5 motions for default, requests for the clerk to enter default judgment, and motions for the court to  
6 enter default judgment where the opposing party has not appeared shall be noted for  
7 consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions  
8 shall be noted for consideration no earlier than the third Friday following filing and service of the  
9 motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier  
10 than the fourth Friday following filing and service of the motion. *Id.*

11 For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-  
12 dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday  
13 immediately preceding the date designated for consideration of the motion. If a party (*i.e.*, a *pro*  
14 *se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's  
15 office by 4:30 p.m. on the Monday preceding the date of consideration.

16 The party making the motion may file and serve, not later than 11:59 p.m. (if filing  
17 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date  
18 designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

19 (5) Motions to Dismiss and Motions for Summary Judgment

20 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil  
21 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil  
22 Procedure should acquaint themselves with those rules. As noted above, these motions shall be

1 noted for consideration no earlier than the fourth Friday following filing and service of the  
2 motion.

3 Defendants filing motions to dismiss or motions for summary judgment are advised that they  
4 MUST serve *Rand* notices concurrently with motions to dismiss based on failure to exhaust  
5 administrative remedies and motions for summary judgment so that *pro se* prisoner plaintiffs will  
6 have fair, timely and adequate notice of what is required of them in order to oppose those  
7 motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth  
8 model language for such notices:

9 A motion for summary judgment under Rule 56 of the Federal Rules of  
10 Civil Procedure will, if granted, end your case.

11 Rule 56 tells you what you must do in order to oppose a motion for  
12 summary judgment. Generally, summary judgment must be granted when  
13 there is no genuine issue of material fact – that is, if there is no real  
14 dispute about any fact that would affect the result of your case, the party  
15 who asked for summary judgment is entitled to judgment as a matter of  
16 law, which will end your case. When a party you are suing makes a  
17 motion for summary judgment that is properly supported by declarations  
18 (or other sworn testimony), you cannot simply rely on what your  
19 complaint says. Instead, **you must set out specific facts in declarations,  
20 depositions, answers to interrogatories, or authenticated documents,  
21 as provided in Rule 56(e), that contradict the facts shown in the  
22 defendant’s declarations and documents and show that there is a  
23 genuine issue of material fact for trial. If you do not submit your own  
evidence in opposition, summary judgment, if appropriate, may be  
entered against you. If summary judgment is granted, your case will  
be dismissed and there will be no trial.**

19 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added).

20 Defendants who fail to file and serve the required *Rand* notice on plaintiff may have their  
21 motion stricken from the Court’s calendar with leave to re-file.

