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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TIMOTHY RICHARD NELSON,  
  
Plaintiff,  
  
v.  
  
MICHAEL J. ASTRUE, Commissioner  
of the Social Security Administration,  
  
Defendant.

CASE NO. 12-cv-05540-RJB-JRC  
  
ORDER TO PROVIDE PROOF OF  
SERVICE OR TO SHOW CAUSE  
WHY THIS MATTER SHOULD  
NOT BE DISMISSED

This matter has been referred to the United States Magistrate Judge J. Richard  
Creatura pursuant to 28 U.S.C. § 636(b)(1) and Local Magistrate Judge rule MJR 4(a)(4),  
and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261, 271-72  
(1976).

Because there is no evidence in the record that this case has been served properly,  
the Court hereby orders plaintiff to provide proof of service or show cause by January 11,  
2013 as to why this matter should not be dismissed for lack of prosecution.

1 DISCUSSION

2 Fed. R. Civ. P. (4)(m) requires a defendant to be served within 120 days after a  
3 complaint is filed. Fed. R. Civ. P. 4(1) requires proof of service to be filed or made to the  
4 court<sup>1</sup>. At this time, although the complaint in this matter was filed on June 19, 2012 and  
5 summonses were issued on June 20, 2012 (*see* ECF Nos. 1, 2) the record does not show  
6 that the complaint has been served properly. *See also* Fed. R. Civ. P. 4(l) (proving  
7 service).

8 Fed. R. Civ. P. 4(i) governs service with respect to complaints against the United  
9 States and against United States agencies, officers and employees. *See* Fed. R. Civ. P.  
10 4(i); *see also* *Villegas v. Astrue*, 2012 U.S. Dist. LEXIS 55223 at \*1-\*2 (C.D. Cal. April  
11 18, 2012) (*citing* Fed. R. Civ. P. 41(b)).

12 Fed. R. Civ. P. 4(m) requires the court to provide notice to plaintiff before the  
13 matter may be dismissed for lack of prosecution, and Rule 4(i)(4) requires the court to  
14 allow a reasonable time for plaintiff to cure a failure to serve multiple entities, if plaintiff  
15 has effected service on either the United States Attorney or the Attorney General of the  
16 United States.

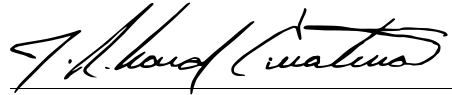
17 CONCLUSION

18 Plaintiff is hereby ordered to provide proof of service or show cause why this  
19 matter should not be dismissed for lack of prosecution by January 11, 2013. Failure to  
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23 <sup>1</sup> This Court's website has instructions regarding ways to accomplish service of  
24 Summons and Complaint: <http://www.wawd.uscourts.gov/referencematerials/forms.htm>;  
<http://www.wawd.uscourts.gov/documents/SpecialCaseNotices/MDL1407/08.pdf>.

1 provide proof of service or show cause likely will result in a Report and  
2 Recommendation to dismiss this action. Plaintiff's action subsequently may be dismissed  
3 by the Court.

4 Dated this 7<sup>th</sup> day of December, 2012.

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8 J. Richard Creatura  
9 United States Magistrate Judge  
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