

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

RHAWN JOSEPH, PH.D. v. U.S. DEPT OF JUSTICE, et al.

Joseph · No. 25-cv-02773-NW · Decided October 31, 2025

SUMMARY

The United States District Court for the Northern District of California ordered Plaintiff to show cause why the action should not be dismissed without prejudice for failure to timely and properly serve the defendants under Federal Rule of Civil Procedure 4. The court also explained that electronic service through CM/ECF is generally available for later-filed documents after proper service of the defendants and directed Plaintiff to associate his CM/ECF account with the case.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Noél Wise
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 31, 2025
DOCKET	25-cv-02773-NW
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause after determining that Plaintiff had not filed proof that Defendants were timely and properly served.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown.
PARTIES	Rhawn Joseph, Ph.D. v. U.S. Department of Justice, et al.

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- federal litigation

QUESTIONS PRESENTED

1. Whether Plaintiff should be required to show cause why the action should not be dismissed without prejudice for failure to timely and properly serve Defendants under Federal Rule of Civil Procedure 4.
2. Whether Plaintiff could use CM/ECF to serve the complaint and other case-initiating documents before effectuating service under Rule 4.
3. Whether Plaintiff should associate his existing CM/ECF account with the case to receive electronic filing notifications.

HOLDINGS

1. Because Plaintiff had not filed proof of service within the ninety-day period and had not demonstrated compliance with the government-service procedures in Rule 4(i), the court ordered him to show cause why the action should not be dismissed without prejudice.
2. Plaintiff could not use CM/ECF to serve the complaint or other case-initiating documents in place of service under Rule 4; CM/ECF may be used to serve non-case-initiating documents under Rule 5 after proper service is effectuated.

KEY QUOTATIONS

“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.” (at 1)

“Plaintiff may use CM/ECF to serve non-case-initiating documents upon Defendants once he effectuates service upon Defendants.” (at 2)

FACTUAL BACKGROUND

Plaintiff filed this federal civil action on March 24, 2025, and summonses were issued that day. He had not filed proof showing that any Defendant had been served within ninety days, nor had he shown compliance with Federal Rule of Civil Procedure 4(i)'s requirements for serving the government. The United States Attorney's Office had notified Plaintiff that his attempted service was defective, including because Federal Express is not registered or certified mail under Rule 4(i)(1).

PROCEDURAL HISTORY

Plaintiff filed the action on March 24, 2025, against several dozen government officials and entities, and summonses were issued the same day. Plaintiff had not filed a certificate of service within the ninety-day period and had not demonstrated compliance with the special service procedures for the federal government. The court ordered Plaintiff to show cause within fourteen days why the action should not be dismissed without prejudice for failure to timely and properly serve Defendants.

DISPOSITION

other

CASES CITED

- Ignacio v. Judges of U.S. Court of Appeals for Ninth Circuit, 453 F.3d 1160, 1163-1165 (9th Cir. 2006)
- Lietz v. Drug Enforcement Administration, No. 23-35603, 2025 WL 289169, at *1 (9th Cir. Jan. 24, 2025)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
RHAWN JOSEPH, PH.D., Case No. 25-cv-02773-NW 8 Plaintiff, ORDER TO SHOW CAUSE v.
9 Re: ECF No. 1 10 U.S. DEPT OF JUSTICE, et al., Defendants. 11 12 13 Plaintiff Rhawn
Johnson, Ph. D.,¹ filed this action on March 24, 2025 against several 14 dozen government
officials and entities.² ECF No. 1.

Summons was issued that same day. ECF 15 No. 2. 16 To maintain his suit, a plaintiff must serve a
summons and a copy of the complaint in the 17 manner and within the time prescribed by Federal
Rule of Civil Procedure 4. “Unless service is 18 waived, proof of service must be made to the
court.” Fed. R. Civ. P. 4(l)(1). “If a defendant is not 19 served within 90 days after the complaint is
filed, the court—on motion or on its own after notice 20 21 1 Plaintiff is self-represented.

So that Plaintiff is fully informed, the Court notes that the San Jose Courthouse houses a Federal
Pro Se Program that provides free information and limited-scope 22 legal advice to pro se parties
in federal civil cases.

The Program can help determine whether cases might be eligible for appointment of pro bono
counsel and can provide referrals to other legal 23 services. Appointments can be made by calling
(408) 297-1480. More information is available online at [https://cand.uscourts.gov/representing-](https://cand.uscourts.gov/representing-yourself/federal-pro-se-program-san-jose-24-courthouse)
yourself/federal-pro-se-program-san-jose- 24 courthouse. 25 2 The complaint’s caption lists the
United States District Court for the Northern District of California as a Defendant.

Nevertheless, the “rule of necessity” means that the undersigned need 26 not recuse herself. See
Ignacio v. Judges of U.S. Court of Appeals for Ninth Circuit, 453 F.3d 1160, 1163–1165 (9th Cir.
2006) (finding that under the rule of necessity—which allows a 27 normally disqualified judge to
hear a case that could not otherwise be heard—a three-member 1 to the plaintiff—must dismiss the
action without prejudice against that defendant or order that 2 service be made within a specified
time.” Fed.

R. Civ. P. 4(m). 3 Plaintiff has not filed a certificate of service showing that any Defendant has
been served 4 within the 90-day deadline as set forth in Rules 4(m) of the Federal Rules of Civil
Procedure, nor 5 has Plaintiff demonstrated that he complied with the procedures required for
serving the 6 government set forth in Rule 4(i).³ Accordingly, Plaintiff is ORDERED to show
cause why this 7 matter should not be dismissed for failure to timely and properly serve
Defendants.

Plaintiff shall 8 file a written response to this order to show cause within 14 days. 9 Plaintiff also requests leave to file and serve all documents electronically via the CM/ECF 10 system. ECF No. 22. As explained more comprehensively in the CAND pro se handbook, “the 11 rules for serving the complaint are different from the rules for serving other documents.

Pro Se 12 Handbook at 11, available at <https://cand.uscourts.gov/representing-yourself/pro-se-handbook> 13 (emphasis in original). To maintain his suit, Plaintiff must serve each Defendant in accordance 14 with Rule 4. Plaintiff may use CM/ECF to serve non-case-initiating documents upon Defendants 15 once he effectuates service upon Defendants. See Fed. R. Civ.

P. 5 (governing service of papers 16 that do not assert a claim for relief). 17 The Court understands that Plaintiff already has a CM/ECF account, however. ECF No. 18 22. Plaintiff is directed to associate his account with this suit so that he receives Notices of 19 Electronic Filing (“NEFs”) from the Court.⁴ As a one-time courtesy, the Court’s courtroom 20 deputy will email this order to Plaintiff to ensure he receives these instructions.

Going forward, 21 the Court will presume that Plaintiff receives all Court filings and other notifications when they 22 23 24 3 The United States Attorney’s Office notified Plaintiff that he failed to properly serve Defendants 25 on April 15, 2025 and again on May 21, 2025. ECF No. 15. That letter correctly notes that Federal Express (oftentimes called FedEx) “is not ‘registered or certified mail’ under Rule 26 4(i)(1).” Id. (quoting *Lietz v. Drug Enforcement Admin.*, No. 23-35603, 2025 WL 289169, at *1 (9th Cir.

Jan. 24, 2025)). Plaintiff cannot lawfully serve Defendants using FedEx. 27 1 are transmitted electronically, and the Court will no longer mail filings and notifications to 2 || Plaintiffs address. 3 IT IS SO ORDERED. 4 Dated: October 31, 2025 Noël Wise 6 United States District Judge 7 8 9 10 11 12 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28