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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 UNITED STATE OF AMERICA ex rel
12 OTHMAR BURGHARD, DAVID S.
13 KOVEN, and ROXANNE KOVEN,

14 Relators,

15 v.

16 AECOM, COMBAT SUPPORT
17 ASSOCIATES, RAM, SMI
18 INTERNATIONAL LLC, MPRI, and L-3
19 COMMUNICATIONS,

20 Defendants.

Case No. 2:08-cv-07389-ODW(CTx)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

21 On October 22, 2012, following the United States's declination to intervene in
22 this matter under 31 U.S.C. § 3730(b)(4)(B), the Court ordered the Complaint be
23 unsealed and served on Defendant Aecom by Relators Othmar Burghard, David
24 Koven, and Roxanne Koven. (ECF No. 38.) Service was to be made under Federal
25 Rule of Civil Procedure 4, and Aecom was not required to respond to the Complaint
26 "until 20 days after the complaint [was] unsealed and served upon" it." *Id.*
27 § 3730(b)(3).

28 Rule 4's 120-day service deadline expired on February 19, 2013. Because no
Defendant had been served by that date, the Court ordered Relators on March 4 to
show cause why this action should not be dismissed under Rule 4(m). (*See* ECF

1 No. 39.) Relators responded that (despite their counsel being listed on CM/ECF as
2 counsel to be notified) “Relators’ first notice that the case may have been unsealed”
3 came by way of the Court’s March 4 OSC. (ECF No. 40.) Giving Relators the
4 benefit of the doubt, the Court discharged the March 4 OSC and ordered Relators to
5 serve Defendants no later than July 6, 2013. (ECF No. 41.)

6 Despite this extension, still no Defendant has been served. The Court therefore
7 issued a second OSC on July 17 requesting that Relators show cause yet again “why
8 this action should not be dismissed for lack of prosecution.” (ECF No. 43.) In
9 response, Relators’ counsel submitted—without comment—a five-page email Relator
10 Othmar Burghard drafted late Sunday night the day before it was due. (ECF No. 46.)
11 It’s clear that Burghard had no help in drafting this email, which sets forth the reason
12 Burghard—a layperson—believes his case has merit. But the Court asked Relators to
13 show cause why Defendants had not been *timely served* under Rule 4(m).
14 Unfortunately for Burghard, his email fails to address the Court’s OSC and does not
15 demonstrate any cause whatsoever why this action should not be dismissed for lack of
16 timely service.

17 The Court has little doubt that Burghard is unfamiliar with the morass of
18 procedural rules governing litigation in federal court; that responsibility typically falls
19 on the litigant’s counsel. And Burghard’s counsel’s pending request to withdraw—
20 filed three days before service was due (ECF No. 42)—does not remove counsel’s
21 attorney-client obligations. The Court therefore **DISMISSES** this action **WITHOUT**
22 **PREJUDICE** under Federal Rule of Civil Procedure 4(m). The Court further

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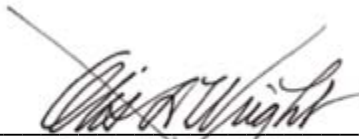
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1 **ORDERS** counsel to personally serve this order on Relators Othmar Burghard, David
2 Koven, and Roxanne Koven within 48 hours.

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4 **IT IS SO ORDERED.**

5 July 23, 2013

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8 **OTIS D. WRIGHT, II**
9 **UNITED STATES DISTRICT JUDGE**
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