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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Gary John Emerson,
10 Plaintiff,

11 v.

12 Corizon Health Services, et al.,
13 Defendants.
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No. CV-15-00093-PHX-ROS (ESW)

ORDER

15 Pending before the Court is Plaintiff's "Motion for Address Correction and Notice
16 of Eratum [sic]" (Doc. 16) filed on March 2, 2016. Plaintiff is a pro se prisoner housed at
17 the Arizona State Prison Complex-Florence. He has filed a civil rights Complaint (Doc.
18 1) pursuant to 42 USC § 1983. The Court screened Plaintiff's Complaint pursuant to 28
19 U.S.C. § 1915A. By Order of the Court filed on March 25, 2015, Defendant Townsend
20 was ordered to answer Plaintiff's claim for constitutionally deficient medical care. (Doc.
21 8 at 10). All other Defendants were dismissed without prejudice. (*Id.*). The Clerk of
22 Court sent a service packet to the Plaintiff on March 25, 2015 to assist in the effectuation
23 of service of process upon Defendant Townsend. (*Id.* at 11).

24 By Order of the Court filed on June 2, 2015, the Court ordered the Attorney
25 General's Office to file under seal the last known address of Defendant Townsend who is
26 alleged to have worked as a Nurse Supervisor at the Arizona Department of Corrections-
27 East Unit in Florence, Arizona, through her employment with Corizon Health Services.
28 (Doc. 11 at 3). Subsequent to an Order to Show Cause being issued (Doc. 12 at 1), the

1 Attorney General's Office filed Defendant Townsend's last known address under seal.
2 (Doc. 14).

3 On January 29, 2016, the Clerk of Court forwarded to the United States Marshals
4 Service ("USMS") the last known address of Defendant Townsend for purposes of
5 service of process. On February 19, 2016, the USMS filed a Process Receipt and Return
6 indicating that service was returned unexecuted for "insufficient address-unable to
7 forward." (Doc. 15 at 1). The Court is unable to determine whether the address used by
8 USMS was complete as provided under seal. (Doc. 15 at 2). In addition, the demarcation
9 "insufficient address" of the United States Postal Service ("USPS") suggests incomplete
10 information was used or provided at the time of attempted service.

11 CONCLUSION

12 For the reasons set forth above,

13 **IT IS ORDERED** that the Attorney General's Office confirm by Notice to the
14 Court filed within ten (10) days of the filing of this Order that the address provided under
15 seal (Doc. 14) is complete as known to the Attorney General's Office through
16 confirmation with the Arizona Department of Corrections. If additional address
17 information becomes known, counsel shall file same under seal in conjunction with the
18 filing of the Notice to the Court.

19 **IT IS FURTHER ORDERED** that the Clerk of Court prepare and send to USMS
20 another service packet for service of the Summons and Complaint upon Defendant
21 Townsend upon receipt of the Attorney General's filing of the Notice to the Court,
22 utilizing the additional address information which may be filed under seal, if any. In
23 addition:

24 1. The United States Marshal shall retain the Summons, a copy of the Complaint
25 (Doc. 1), and a copy of this Order for future use.

26 2. The United States Marshal shall notify Defendant Townsend of the
27 commencement of this action and request waiver of service of the summons pursuant to
28 Rule 4(d) of the Federal Rules of Civil Procedure. The notice to Defendant Townsend

1 shall include a copy of this Order. The Marshal shall file waivers of service of the
2 summons or requests for waivers that were returned as undeliverable as soon as they are
3 received. If a waiver of service of summons is returned as undeliverable or is not
4 returned by Defendant Townsend within thirty days from the date the request for waiver
5 was sent by the Marshal, the Marshal shall: (a) Personally serve copies of the Summons,
6 Complaint, and this Order upon Defendant Townsend pursuant to Rule 4(e)(2) of the
7 Federal Rules of Civil Procedure; and (b) Within ten days after personal service is
8 effected, file the return of service for Defendant Townsend, along with evidence of the
9 attempt to secure a waiver of service of the summons and of the costs subsequently
10 incurred in effecting service upon Defendant Townsend. The costs of service shall be
11 enumerated on the return of service form (USM-285) and shall include the costs incurred
12 by the Marshal for photocopying additional copies of the Summons, Complaint, or this
13 Order and for preparing new process receipt and return forms (USM-285), if required.
14 Costs of service will be taxed against the personally served Defendant Townsend
15 pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure, unless otherwise
16 ordered by the Court.

17 3. If Defendant Townsend agrees to waive service of the Summons and
18 Complaint (Doc. 1), she shall return the signed waiver forms to the United States
19 Marshal, not the Plaintiff.

20 4. Defendant Townsend shall answer the Complaint (Doc. 1) or otherwise respond
21 by appropriate motion within the time provided by applicable provisions of Rule 12(a) of
22 the Federal Rules of Civil Procedure.

23 **IT IS FURTHER ORDERED** that the time for completing service is extended
24 sixty days from the date this Order is filed. If Plaintiff does not obtain either a waiver of
25 service of the summons or complete service of the Summons and Complaint on
26 Defendant Townsend, the action may be dismissed. Fed. R. Civ. P. 4(m); LRCiv
27 16.2(b)(2)(B)(i).

28 **IT IS FURTHER ORDERED** granting the “Motion for Address Correction and

1 Notice of Eratum [sic]" (Doc. 16) to the extent set forth above. The Court notes that it is
2 not the responsibility of USMS to perform a search for Defendant Townsend. USMS is
3 tasked with serving Defendant Townsend at the address provided to them. The Court is
4 unable to determine from the documentation filed under seal as compared to the Process
5 Receipt and Return whether USMS has done so. However, if the Defendant is no longer
6 located at the address provided under seal, Plaintiff must request of the Court subpoenas
7 duces tecum to conduct reasonable discovery limited to ascertaining the requisite service
8 information for purposes of serving Defendant Townsend, specifically her current
9 address.

10 Dated this 20th day of May, 2016.

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15 Honorable Eileen S. Willett
16 United States Magistrate Judge
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