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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jude Kagabines,

10 Plaintiff,

11 v.

12 Applied Business Services Incorporated,

13 Defendant.
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No. CV-17-01483-PHX-ESW

ORDER

15 Plaintiff filed his Complaint (Doc. 1) on May 15, 2017. Pursuant to Fed. R. Civ.
16 P. 4(m), Plaintiff must effectuate service of process upon the Defendant within ninety
17 days of the filing of his Complaint. No proof of service has been filed, and the deadline
18 for service of process has expired. On October 4, 2017, the Court ordered Plaintiff to
19 show cause no later than October 16, 2017 why the Court should not dismiss Plaintiff's
20 Complaint for failure to timely serve pursuant to Fed. R. Civ. P. 4(m) (Doc. 10). Plaintiff
21 has not filed a response to the Court's Order.

22 Under Fed. R. Civ. P. 4(m), "[i]f a defendant is not served within 90 days after the
23 complaint is filed, the court—on motion or on its own after notice to the plaintiff—must
24 dismiss the action without prejudice against that defendant or order that service be made
25 within a specified time." However, "if the plaintiff shows good cause for the failure, the
26 court must extend the time for service for an appropriate period." *Id.* As the Ninth
27 Circuit Court of Appeals has explained, "Rule 4(m) requires a two-step analysis in
28 deciding whether or not to extend the prescribed time period for the service of a

1 complaint.” *In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001) (citing Fed. R. Civ. P. 4(m)
2 and *Petrucelli v. Bohringer & Ratzinger, GMBH*, 46 F.3d 1298, 1305 (3d Cir. 1995)).
3 “First, upon a showing of good cause for the defective service, the court must extend the
4 time period. Second, if there is no good cause, the court has the discretion to dismiss
5 without prejudice or to extend the time period.” *Id.* The Ninth Circuit has found it
6 “unnecessary, however, to articulate a specific test that a court must apply in exercising
7 its discretion under Rule 4(m),” noting “only that, under the terms of the rule, the court’s
8 discretion is broad.” *Id.* at 513.

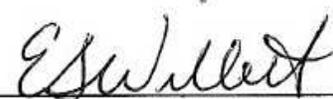
9 Plaintiff has failed to show good cause for defective service in this case.

10 For the reasons set forth herein,

11 **IT IS ORDERED** dismissing Plaintiff’s Complaint (Doc.1) without prejudice.

12 **IT IS FURTHER ORDERED** terminating the case.

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14 Dated this 19th day of October, 2017.

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Eileen S. Willett
United States Magistrate Judge