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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Rafael Cezar Danam,
10 Plaintiff,

11 v.

12 Arizona Board of Education, as individual
13 members of the Arizona Board of Education,
14 Defendants.

No. CV-18-1493-PHX-DGC

ORDER

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17 Pro se plaintiff Rafael Cezar Danam filed this action against the 18 members of the
18 Arizona Board of Education, asserting various claims and seeking more than \$2 million in
19 damages. Doc. 25. Defendants previously moved to dismiss Plaintiff's first amended
20 complaint on several grounds, including failure to serve and to state a claim. Doc. 36.
21 Ruling on that motion and addressing other issues in the case, the Court ordered Plaintiff
22 to respond by Tuesday, July 16, 2019, and (1) show good cause why the Court should grant
23 an extension to serve all 18 Defendants under Rule 4, and (2) provide proof that he is in
24 fact a reserve member of the U.S. Armed Forces and has been deployed during the times
25 averred to the Court. Doc. 40.

26 Plaintiff failed to provide proof of service, and has now failed to show good cause
27 why the Court should grant an extension for him to properly serve Defendants. Since the
28 Court's May 31, 2019 order, Plaintiff has filed three documents. Docs. 41, 42, 43. None

1 addresses good cause for granting an extension to serve. The first, “Motion and Notice of
2 Verification of Military Status Service,” appears to seek leave to amend Plaintiff’s
3 complaint and lists eight documents purporting to show proof of military service, with no
4 explanation. Doc. 41 at 1-3. Attached are several documents from the Maricopa County
5 Sherriff’s Office appearing to show returned service attempts, a returned summons from
6 the District Court Clerk of Court, a copy of a summons for this case, and various documents
7 related to Plaintiff’s service history. *Id.* at 4-8. The second is a motion for leave to amend
8 his complaint, and does not address good cause or Plaintiff’s failure to serve Defendants.
9 Doc. 24. The third filing appears to seek permission for the named Assistant Attorney
10 General on the case, or the Executive Director of the Arizona State Board of Education, to
11 accept service on behalf of all 18 Defendants. Doc. 43 at 1-2.

12 As noted in the Court’s previous order, under Rule 4(m), “upon a showing of good
13 cause for the defective service, the court must extend the time period.” *In re Sheehan*, 253
14 F.3d 507, 512 (9th Cir. 2001). “[I]f there is no good cause, the court has the discretion to
15 dismiss without prejudice or to extend the time period.” *Id.*; *see also Tagata v. Schwarz*
16 *Pharma., Inc.*, No. CV 14-2238-TUC-JAS, 2014 WL 12642791, at *1 (D. Ariz. Dec. 8,
17 2014). The Court specifically warned Plaintiff that if he failed to make the good cause
18 showing explained in its May 31, 2019 order, the Court would dismiss the action for lack
19 of service. *See* Doc. 41. This case has been pending for more than 14 months with no
20 progress because Plaintiff has not served Defendants despite ample opportunity to do so.
21 Because Plaintiff has failed to show good cause for this failure, the Court will dismiss his
22 first amended complaint without prejudice and terminate this action.

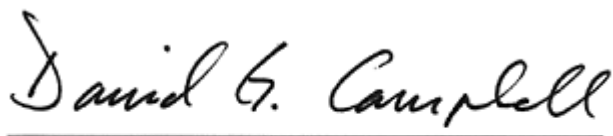
23 **IT IS ORDERED:**

- 24 1. Plaintiff’s first amended complaint is **dismissed without prejudice** for
25 failure to serve under Fed. R. Civ. P. 4(m).
- 26 2. Plaintiff’s pending motions (Docs. 42, 43) are **denied** as moot.
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- 3. The Clerk is directed to terminate this case.
- 4. Plaintiff shall make no further filings in this case.

Dated this 19th day of July, 2019.



David G. Campbell
Senior United States District Judge