

1 **WO**

2 NOT FOR PUBLICATION

3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
8

9 Robin J. Reidhead,)	No. CV-09-8212-PCT-GMS
10 Plaintiff,)	ORDER
11 vs.)	
12)	
13 Heber-Overgaard Fire Department; Stan)	
Wagaman, Chief; Paul Rehman, Deputy)	
14 Chief,)	
15 Defendants.)	

16
17 Pending before the Court is a Motion to Quash Service of Summons¹ filed by
18 Defendants Heber-Overgaard Fire Department (“HFD”) and Paul Rehman (“Rehman”).
19 (Doc. 30). For the reasons set forth below, the Court grants the Motion.
20

21 **BACKGROUND**

22 In May 2009, Plaintiff Robin J. Reidhead (“Reidhead”) applied for a job as an
23 ambulance driver with the HFD. (Doc. 20). Reidhead alleges that her application was
24

25 ¹Defendants’ Motion states that it is a “Motion to Dismiss for Insufficiency of
26 Process.” (Doc. 30). However, Plaintiff had 120 days from the filing of her Amended
27 Complaint on April 13, 2010 to effect service on Defendants. *See Dollone v. Ventura*
28 *Unified Sch. Dist.*, 272 F. App’x 613, 615 (9th Cir. 2008) (holding that a Plaintiff has “120
days from the date the amended complaint is filed to serve all of the defendants”).
Accordingly, because Plaintiff had until August 11, 2010 to properly serve Defendants, the
Court construes the Motion as a Motion to Quash Service of Summons.

1 rejected because, according to Stan Wagaman, Chief of the HFD, and Rehman, Deputy Chief
2 of the HFD, she had to be “EMT or National First Responder certified before [she] could be
3 hired.” *Id.* According to Reidhead, that requirement is in place because of an Arizona
4 regulation requiring that every ambulance have at least two medically-certified personnel on
5 board when transporting patients. *Id.* Reidhead also alleges, however, that around the time
6 of her application, the HFD hired five uncertified young men as ambulance drivers and
7 accommodated their lack of training by ensuring that the Arizona requirement was always
8 met. *Id.* Reidhead further asserts that the HFD’s policy and procedure manual allows for
9 ambulance drivers to be hired without certification so long as they are certified within one
10 year of employment. *Id.*

11 Reidhead subsequently filed a claim with the Equal Employment Opportunity
12 Commission (“EEOC”) for employment discrimination. *Id.* The EEOC was unable to
13 conclude that the information Reidhead provided established violations of any statutes. *Id.*
14 Pursuant to her rights granted by the EEOC, Reidhead initiated this action against Defendants
15 on November 30, 2009, alleging violations of Title VII.

16 DISCUSSION

17 I. Reidhead’s Service Upon Rehman was Insufficient

18 Under the Federal Rules of Civil Procedure (“Federal Rules”), “service upon an
19 individual may be made by ‘delivering a copy of the summons and of the complaint to the
20 individual personally; . . . leaving a copy of each at the individual’s dwelling or usual place
21 of abode with someone of suitable age and discretion who resides there; . . . [or] delivering
22 a copy of each to an agent authorized by appointment or by law to receive service of
23 process.’” *Haskins v. Moynihan*, 2010 WL 2691562, at *3 (D. Ariz. July 6, 2010) (citing Fed.
24 R. Civ. P. 4(e)(2)). Service may be performed by “any person who is at least 18 years old
25 and not a party.” Fed. R. Civ. P. 4(c)(2). Under the Federal Rules, a Plaintiff also has the
26 option of serving an individual by “following state law for serving a summons in an action
27 brought in courts of general jurisdiction in the state where the district court is located or
28 where service is made.” Fed. R. Civ. P. 4(e)(1). The Arizona Rules of Civil Procedure

1 (“Arizona Rules”) mirror the requirements of the Federal Rules for service of an individual.
2 *See* Ariz. R. Civ. P. 4.1(d). Additionally, under the Arizona Rules, “service of process shall
3 be made by a sheriff, a sheriff’s deputy a private process server . . . or any other person
4 specially appointed by the court.” Ariz. R. Civ. P. 4(d).

5 The record indicates that Reidhead has not properly served Rehman. The undisputed
6 evidence indicates that Reidhead attempted to effect service upon Rehman by sending the
7 complaint and the summons by certified mail. (Doc. 30, Doc. 31). Certified mail is not an
8 acceptable means of service upon an in-state individual under either the Federal Rules or the
9 Arizona Rules. Although the Arizona Rules allow for service by mail upon out-of-state
10 parties, there is no such allowance where the individual being served is within the territorial
11 limits of Arizona. *See* Ariz. R. Civ. P. 4. Furthermore, the record indicates that service was
12 insufficient because Reidhead herself attempted to effect service upon Rehman. Neither the
13 Federal Rules nor the Arizona Rules allow a party to serve another party to the lawsuit.² *See*
14 Fed. R. Civ. P. 4(c)(2); Ariz. R. Civ. P. 4(d). Accordingly, Reidhead’s service upon Rehman
15 through certified mail was insufficient.

16 **II. Reidhead’s Service Upon the HFD was Insufficient**

17 In addition to the general requirements for process set forth above, the Federal Rules
18 mandate that a state, a municipal corporation, or any other state-created governmental
19 organization that is subject to suit must be served by “delivering a copy of the summons and
20 of the complaint to its chief executive officer or serving a copy of each in the manner
21 prescribed by that state’s law for serving a summons or like process on such a defendant.”
22 Fed. R. Civ. P. 4(j)(2). The Arizona Rules state, “Service upon a county or municipal
23 corporation or other governmental subdivision of the state subject to suit . . . shall be effected
24 by delivering a copy of the summons and of the pleading to the chief executive officer, the
25 secretary, clerk, or recording officer thereof.” Ariz. R. Civ. P. 4.1(i).

26
27 ²The Arizona Rules allow for service by a party “where expressly authorized by these
28 rules.” Ariz. R. Civ. P. 4(d). Service of an individual is not such a situation expressly
authorized by the Rules.

1 The evidence indicates that Reidhead has not sufficiently served the HFD as a
2 governmental entity. Reidhead has not demonstrated that she has effected service upon the
3 CEO, the secretary, clerk, or recording officer of the HFD as required by the Federal and
4 Arizona Rules. Furthermore, as discussed above, Reidhead's attempted service of process
5 fails because (1) she attempted to do it herself in violation of Federal Rule 4(c)(2) and
6 Arizona Rule 4(d), and (2) because she attempted to do so by mail in violation of Federal
7 Rule 4(e) and Arizona Rule 4(d). Accordingly, Reidhead has failed to properly effect service
8 upon the HFD.

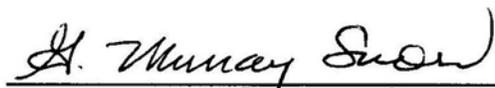
9 **CONCLUSION**

10 For the reasons set forth above, the Court grants the Motion to Quash Service of
11 Summons (Doc. 30). Although Reidhead would have had until August 13 to effectuate
12 service, Defendants filed their Motion challenging service on July 2. At that time, Reidhead
13 had 40 days remaining to serve Defendants. Accordingly, Reidhead shall now have until
14 September 7, 2010 to serve Defendants.

15 **IT IS THEREFOR ORDERED** that Defendants' Motion to Quash Service of
16 Summons (Doc. 30) is **GRANTED**.

17 **IT IS FURTHER ORDERED** that Plaintiff shall have until **September 7, 2010** to
18 properly serve Defendants with her Amended Complaint.

19 DATED this 30th day of July, 2010.

20
21 
22 _____
23 G. Murray Snow
24 United States District Judge
25
26
27
28