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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Oscar Vargas,
Plaintiff,
v.
Snowflake Unified School District No. 5, et
al.,
Defendants.

No. CV-17-08035-PCT-JAT

ORDER

The Court now rules on Plaintiff Oscar Vargas’ motion requesting an extension of time to serve the Snowflake Unified School District (“the District”) with his complaint. (Doc. 7).

Under Federal Rule of Civil Procedure (“Rule”) 4(m), a defendant must be served within 90 days after a complaint is filed. The Ninth Circuit Court of Appeals has explained that a district court must extend this time limit if a plaintiff shows good cause for doing so. *Lemoge v. United States*, 587 F.3d 1188, 1198 (9th Cir. 2009). Alternatively, a district court may, in its discretion, extend the time for service if the plaintiff has shown that the failure to serve was the result of excusable neglect. *Id.* Plaintiff’s motion does not show that good cause exists to extend the time to file. Moreover, there has been no determination that Plaintiff in fact served the wrong party; the District makes that argument in its motion to dismiss, which is still pending before this Court. (Doc. 4). The Court therefore finds that Plaintiff’s motion is not ripe.

Similarly, the Court will not grant advanced permission for Plaintiff to serve the

1 district by publication. “The decision whether to pursue personal service or service by
2 publication is that of the plaintiff, not the court. Because the court does not preauthorize
3 service by publication, the determination whether publication constitutes adequate service
4 is made later in the case.” *Ritchie v. Salvatore Gatto Partners*, 222 P.3d 920, 923 n.4
5 (Ariz. App. 2010) (internal citations omitted).

6 For these reasons,

7 **IT IS ORDERED** that Plaintiff’s motion to extend time to serve (Doc. 7) is
8 DENIED, without prejudice.

9 Dated this 17th day of March, 2017.

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