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**United States District Court
Central District of California**

11 LESA YVONNE JOHNSON,
12 Plaintiff,

13 v.

14 THE TJX COMPANIES, INC.;
15 MARSHALLS of CA, LLC; CAROL
16 MEYROWITZ; ANN MCCAULEY;
17 KAREN BROWN; CYNTHIA
18 HOWARD; KIMBERLY ANN DEITZ;
19 GERRIE STEVENS; THE
20 TRIANGULAR SCHEME; DOES 1–10,
21 inclusive
22 Defendant.

Case № 2:14-cv-05858-ODW (MANx)

**ORDER DENYING PLAINTIFF’S
REQUEST FOR ADDITIONAL
EXTENSION TO SERVE
DEFENDANTS [58]**

23 On February 10, 2015, Plaintiff filed the instant Request for an additional 90
24 days to serve Defendants. (ECF No. 58. [“Req.”]) Because the Court concludes
25 Plaintiff had more than ample time to properly serve Defendants, Plaintiff’s request is
26 **DENIED.**

27 Plaintiff filed her initial Complaint on July 28, 2014—211 days ago. (ECF No.
28 1.) On September 26, 2014, Plaintiff requested leave to amend to resolve issues

1 regarding the corporate Defendants' identities. (ECF No. 26.) The Court granted
2 Plaintiff's request for leave to amend (ECF No. 31) and on September 30, 2014
3 Plaintiff filed her First Amended Complaint—148 days ago. (ECF No. 32.) In its
4 Order granting Plaintiff leave to amend, the Court instructed Plaintiff to serve the
5 Amended Complaint on *all* Defendants "including any Defendants currently in
6 default." (ECF No. 31.) Pursuant to a subsequent Order (ECF No. 56), Plaintiff was
7 required to serve all Defendants by February 9, 2015. (*Id.*) On February 10, 2015,
8 one day *after* the Court's deadline expired, Plaintiff filed the instant Request for an
9 additional 90 days to serve Defendants.

10 Federal Rules of Civil Procedure 4(m) provides that a defendant must be served
11 within 120 days after the Complaint is filed. Accordingly, those Defendants properly
12 identified in Plaintiff's initial complaint (*i.e.* The TJX Companies Inc. ("TJX
13 Companies") and all individual Defendants), should have been served no later than
14 November 25, 2014. With respect to Defendant Marshalls CA, LLC ("Marshalls"),
15 Plaintiff added Marshalls in her First Amended Complaint, which reset Rule 4(m)'s
16 120-day deadline, requiring Plaintiff to serve Marshalls by January 28, 2015. *See*
17 *McGuckin v. United States*, 918 F.2d 811, 812,813 (9th Cir. 1990) (holding that for
18 defendants added by later amendments to the complaint, the 120-day period runs from
19 the date of the amendment, rather than from when the original complaint was filed).

20 Because Plaintiff failed to timely serve Defendants, Plaintiff must show "good
21 cause for the failure" in order for the Court to again extend the time for service. Fed.
22 R. Civ. P. 4(m). In her request for an additional extension, Plaintiff alleges that
23 Defendants are "hindering service of process" and "deliberately and intentionally
24 evading service of process." (Req. 3–4.) As to the *entity* Defendants, TJX Companies
25 and Marshalls, Plaintiff provides no specific instances of Defendants evading or
26 hindering service. As to the *individual* Defendants, Plaintiff alleges that several of her
27 attempts to serve Defendants at the Lancaster TJ Maxx store were thwarted. (*Id.* at 3.)
28 Plaintiff provides only three specific examples in support of this allegation: (1)

1 Plaintiff was informed Cynthia Howard was away on leave of absence; (2) Plaintiff
2 was informed that Kimberly Ann Dietz no longer worked for the company; and (3)
3 Plaintiff waited for two hours for Gerrie Stevens to return from lunch. (*Id.*) The
4 Court is unpersuaded that *any* of these examples constitute attempts by Defendants to
5 either evade or hinder service. Therefore, good cause is not established.

6 Plaintiff also asserts that she established excusable neglect under Federal Rules
7 of Civil Procedure 6(b)(1)(B). (Req. Ex. 2.) The Court does not agree. Plaintiff only
8 alleges that she and her “agent” mistakenly thought the deadline to serve Defendants
9 was February 10, 2015. (*Id.*) The Court finds this insufficient to establish excusable
10 neglect.

11 For the reasons discussed above, the Court **DENIES** Plaintiff’s Request for an
12 additional extension to serve Defendants. (ECF No. 58.) Further, since Plaintiff has
13 failed to properly serve Defendants and comply with the Court’s September 30, 2014
14 Order, the case is **DISMISSED** as to all Defendants without prejudice. The Clerk of
15 the Court shall close this case.

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17 **IT IS SO ORDERED.**

18
19 February 26, 2015

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23 **OTIS D. WRIGHT, II**
24 **UNITED STATES DISTRICT JUDGE**