

UNITED STATES DISTRICT COURT **JS-6 / REMAND**
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 17-5414-DMG (JPRx)** Date **September 28, 2017**

Title **AMCO Insurance Company, et al. v. Rhyna Rivas, et al.** Page **1 of 1**

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)

None Present

Attorneys Present for Defendant(s)

None Present

**Proceedings: IN CHAMBERS - ORDER DISMISSING ACTION AGAINST
DEFENDANTS UNITED STATES OF AMERICA AND “MEDICARE,”
AND REMANDING ACTION TO LOS ANGELES COUNTY SUPERIOR
COURT**

On May 16, 2017, Plaintiffs AMCO Insurance Company, Beverly Alvarado Medical Building, and The Beaumont Company filed a Complaint against, *inter alia*, “Medicare.” [Doc. # 1-1.] On July 21, 2017, the United States removed the action to this Court pursuant to 28 U.S.C. § 1442(a)(1), asserting that the United States had been sued as “Medicare[,]” and that Plaintiff had not served the United States. [Doc. # 1.] On September 12, 2017, the Court issued an Order to Show Cause (“OSC”) by September 26, 2017 why this action should not be dismissed as to Defendant United States, and reminded Plaintiffs of their obligation under Federal Rule of Civil Procedure 4(m) to serve all defendants within 90 days of the filing of the Complaint.¹ [Doc. # 9.] To date, Plaintiffs have not responded to the OSC.

Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** Plaintiffs’ action against Defendants United States and “Medicare” pursuant to Federal Rule of Civil Procedure 4(m) for lack of prosecution. Further, since the only federal governmental defendants in this action have been dismissed, the Court lacks subject matter jurisdiction over the case. *See* 28 U.S.C. § 1442(a)(1) (providing that “[t]he United States or any agency thereof” may remove an action from state court). Therefore, this action is hereby **REMANDED** to the Los Angeles County Superior Court. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”).

IT IS SO ORDERED.

¹ Federal Rule of Civil Procedure 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1).