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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE WASHINGTON,  
Plaintiff,  
vs.  
J. W. ANDREWS, et al.  
Defendants.

No. 1:07-CV-886-CKJ

**ORDER**

On May 21, 2009, this Court ordered that Defendants were required to file an answer and set forth a procedure for service of Defendants. On June 25, 2009, the Summons were returned unexecuted as to Defendants C. Lopez and B. Hernandez. On August 13, 2009, this Court issued an Order regarding additional service attempts on Defendants C. Lopez and B. Hernandez. Additionally, the Court stated:

If Plaintiff does not either obtain a waiver of service of the summons or complete service of the Summons and Complaint on a Defendant within 120 days of the filing of this Order, the action may be dismissed as to each Defendant not served. Fed.R.Civ.P. 4(m).

August 13, 2009, Order, p. 2.

On October 26, 2009, the Summons for C. Lopez was returned unexecuted with a statement that Lopez was not employed at the place indicated by Plaintiff and that there was no forwarding location. No documents have been filed regarding Hernandez.

Service must timely be completed:

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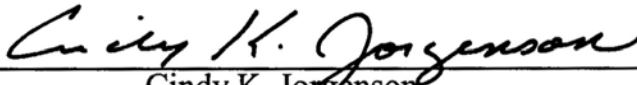
If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

Fed.R.Civ.P. 4(m). Service of C. Lopez and B. Hernandez has not been completed in the time set forth by the Court

Accordingly, IT IS ORDERED:

1. Plaintiff is hereby **ORDERED TO SHOW CAUSE** why this case should not be **DISMISSED WITHOUT PREJUDICE** as to C. Lopez and B. Hernandez pursuant to Rule 4(m), Fed.R.Civ.P., by filing a writing with this Court **on or before January 22, 2010.**
2. This case shall be dismissed without prejudice as to Defendants C. Lopez and B. Hernandez, **without further notice**, should Plaintiff fail to timely comply with this Order.

DATED this 17th day of December, 2009.

  
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Cindy K. Jorgenson  
United States District Judge