



1 the complaint on March 23, 2016. (Docs. 27-30). On March 31, 2016, the United States Marshal filed  
2 a return of service unexecuted as to Defendants Albonetti and King. (Doc. 32).

3 Federal Rule of Civil Procedure 4(m) provides as follows:

4 If a defendant is not served within 90 days after the complaint is filed, the court—on  
5 motion or on its own after notice to the plaintiff—must dismiss the action without  
6 prejudice against that defendant or order that service be made within a specified time.  
7 But if the plaintiff shows good cause for the failure, the court must extend the time for  
8 service for an appropriate period.

9 Fed. R. Civ. P. 4(m).

10 In cases involving a plaintiff proceeding in forma pauperis, the Marshal, upon order of the  
11 court, shall serve the summons and the complaint. Fed. R. Civ. P. 4(c)(3). A pro se litigant  
12 proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service of the summons and  
13 complaint. *See, e.g., Puett v. Blandford*, 912 F.2d 270, 275 (9th Cir. 1990). Accordingly, delays or  
14 failures to effectuate service attributable to the Marshal are “automatically good cause within the  
15 meaning of Rule 4[m].” *Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994), *abrogated on other*  
16 *grounds by Sandin v. Connor*, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995) (citation  
17 omitted). However, where a pro se plaintiff fails to provide the Marshal with accurate and sufficient  
18 information to effect service of the summons and complaint, the Court’s sua sponte dismissal of the  
19 unserved defendant is appropriate. *Walker*, 14 F.3d at 1421-22.

20 Here, the Marshal attempted to serve Defendants Albonetti and King at an address provided by  
21 Plaintiff for the City of Ceres Police Department. However, the Marshal was informed that  
22 Defendants Albonetti and King were no longer employed at the address provided. (Doc. 23). To date,  
23 Plaintiff has not provided sufficient information to locate Defendants Albonetti and King for service of  
24 process. If Plaintiff is unable to provide the Marshal with additional information, Defendants  
25 Albonetti and King shall be dismissed from this action without prejudice. Pursuant to Rule 4(m), the  
26 court will provide Plaintiff with the opportunity to show cause why Defendants Albonetti and King  
27 should not be dismissed from the action at this time. Plaintiff may do so by submitting additional  
28 information to effectuate service of the summons and complaint by the Marshal.

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**III. Conclusion and Order**

Based on the foregoing, it is HEREBY ORDERED that:

1. Within thirty (30) days from the date of service of this order, Plaintiff shall show cause why Defendants Albonetti and King should not be dismissed from this action; and

2. The failure to respond to this order or the failure to show cause will result in the dismissal of Defendants Albonetti and King from this action.

IT IS SO ORDERED.

Dated: April 22, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE