



1 Defendants Holland, Duncan, Solis and Tingley. (ECF No. 18.) On January 26, 2017, the United  
2 States Marshal filed a return of service unexecuted as to Defendant Solis. (ECF No. 21.)

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. But  
if the plaintiff shows good cause for the failure, the court must extend the time for service  
for an appropriate period.

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

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

18 Here, the U.S. Marshal attempted to serve Defendant Solis with the information that  
19 Plaintiff provided. However, the Marshal was informed that Defendant Solis was dismissed on  
20 January 7, 2015, and does not have a current address or phone number. (ECF No. 21.) Plaintiff  
21 therefore has not provided accurate and sufficient information to identify and locate Defendant  
22 Solis for service of process. (ECF No. 21.) If Plaintiff is unable to provide the Marshal with the  
23 necessary information to identify and locate this defendant, Defendant Solis shall be dismissed  
24 from this action, without prejudice. Under Rule 4(m), the Court will provide Plaintiff with the  
25 opportunity to show cause why Defendant Solis should not be dismissed from this action at this  
26 time.

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**III. Conclusion and Order**

Accordingly, the Court HEREBY ORDERS that:

1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall show cause why Defendant Solis should not be dismissed from this action. Plaintiff may comply with this order by providing accurate and sufficient information for the Marshal to identify and locate Defendant Solis for service of process; and
2. **The failure to respond to this order will result in the dismissal of Defendant Solis from this action.**

IT IS SO ORDERED.

Dated: January 27, 2017

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE