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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
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10 **FRANK GUILLOT,**

11 **Plaintiff**

12 **v.**

13 **TERRENCE FERRELL, THE UNITED**
14 **STATES POSTAL SERVICE, and DOES**
15 **1-20 inclusive,**

16 **Defendants**

CASE NO. 1:16-CV-1307 AWI MJS

**ORDER ON RESPONSE TO SHOW
CAUSE AND ORDER GRANTING
ADDITIONAL TIME TO SERVE
DEFENDANT TERRENCE FERRELL**

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18 On February 9, 2017, the Court ordered Plaintiff to show cause why this case should not be
19 dismissed for failure to serve under Rule 4(m) and failure to prosecute. See Doc. No. 8. The
20 Court noted that this case was filed on September 2, 2016, and that the Magistrate Judge had
21 warned Plaintiff about his obligations under Rule 4(m). See id.

22 On February 17, 2017, Plaintiff responded to the Court's order. See Doc. No. 9.
23 Plaintiff's counsel states that he had been negotiating with the United States Postal Service's legal
24 department, but the legal department has failed to respond to Plaintiff's request to accept service
25 of process. See id. Plaintiff's counsel states that, as of February 17, 2017, he sent the Complaint
26 out for service as to both Defendants. See id.

27 At 3:29 p.m. on February 17, 2017, Plaintiff filed a "Summons Returned Executed"
28 ("SRE") with respect to the United States Postal Service. See Doc. No. 10.

1 In light of the representations of Plaintiff's counsel, and the SRE with respect to the Postal
2 Service, the Court will discharge the order to show cause and not dismiss either Defendant. The
3 Court finds it significant that Plaintiff's counsel has been in communication with the Postal
4 Service, but that the Postal Service is not responding to Plaintiff with respect to the service issue.
5 It is also significant that Plaintiff has filed the SRE, and thus served the Postal Service. As to
6 Defendant Terrence Ferrell, a significant period of time has passed since the Complaint was filed,
7 well more than the 90 days set by Rule 4(m). As the Complaint has now been sent out for service,
8 Plaintiff will be given forty-five (45) days in which to serve Ferrell and file a notice of service. If
9 service on Ferrell is not accomplished within forty-five (45) days, Plaintiff will be required to
10 request additional time in which to effectuate service.

11
12 ORDER

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The February 9, 2017, order to show cause (Doc. No. 8) is DISCHARGED; and
15 2. Plaintiff has forty-five (45) days from the date of service of this order in which to
16 effectuate service of process on Defendant Terrence Ferrell.

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18 IT IS SO ORDERED.

19 Dated: February 21, 2017


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SENIOR DISTRICT JUDGE