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

DOUGLAS REAL,

Plaintiff,

No. CIV S-11-1821 GGH P

vs.

JALAL SOLTANIAN-ZADEH, et al.,

ORDER

Defendants.

_____ /

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. By order filed on January 17, 2012, the court ordered the United States Marshal to serve the amended complaint on defendants. Process directed to two of the defendants, Galloway and Heffner, was returned unserved, and, by order filed on February 7, 2012, plaintiff was ordered to provide additional information so these defendants could be served. Following plaintiff's March 12, 2012, submission in response to the February 7th order, the U.S. Marshal was once again directed to serve these two defendants in an order filed on March 23, 2012. An executed waiver of service with respect to defendant Galloway was filed in this court on April 10, 2012; however, as to defendant Heffner, process was again returned unserved as of April 6, 2012. The court than directed defendants' counsel to assist with finding a location for defendant Heffner by order filed on April 19, 2012. Following defense counsel's May 2, 2012, response, the undersigned yet again directed service of the amended complaint by order filed on May 15, 2012. Again,

1 however, service of process upon defendant Heffner was unsuccessful and the latest summons
2 was returned unexecuted on June 25, 2012.

3 Under Rule 4(m), the court must dismiss without prejudice an action as to any
4 defendant who has not been served within 120 days after a complaint has been filed “on motion
5 or on its own after notice to the plaintiff” or specify a time for service to be effected; if “the
6 plaintiff shows good cause for the failure, the court must extend the service for an appropriate
7 period.” In this instance, the court has made multiple efforts to serve this defendant and has
8 provided plaintiff with ample opportunity to provide an accurate location for him and has
9 invoked the assistance of defendants’ counsel to that end, all to no avail.

10 By this order, the court serves notice upon plaintiff that if, within fourteen days,
11 plaintiff does not show good cause for the failure for service to be effected upon defendant
12 Heffner, he will be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m).

13 DATED: August 3, 2012

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15 /s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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