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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Johnny Kan,

Plaintiff,

v.

Verdera Community Association, et al.,

Defendants.

No. 2:22-cv-00348-KJM-JDP

ORDER

The court previously ordered plaintiff Johnny Kan to show cause why this action should not be dismissed for lack of prosecution. ECF No. 17. The court **discharges** that order to show cause after reviewing counsel’s declaration in response. *See generally* Appelbaum Decl., ECF No. 18. In the same declaration, counsel requests an extension of time to complete service and to seek leave to amend his complaint. *See* Appelbaum Decl. ¶ 5.

Under Federal Rule of Civil Procedure 4, the court must dismiss an action without prejudice if a defendant has not been served within 90 days after a complaint is filed. Fed. R. Civ. P. 4(m). The court must also, however, “extend the time for service for an appropriate period,” but only if the plaintiff shows “good cause.” Fed. R. Civ. P. 4(m). The Ninth Circuit has also held that a district court has discretion “to extend the time for service” even absent a showing of good cause. *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001).

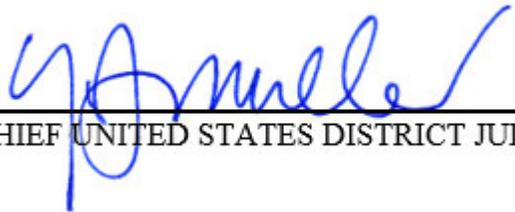
1 Kan has not shown good cause to extend the deadline for completing service under
2 Rule 4(m), but the court exercises its discretion to extend that deadline **fourteen days. No**
3 **further extensions will be granted.** Kan may then amend his complaint within 21 days after
4 serving it, as Rule 15(a)(1)(A) expressly permits.

5 A status (pretrial scheduling) conference is set for **February 9, 2023 at 2:30 p.m.** before
6 the undersigned, with a joint status report due **14 days prior.**

7 IT IS SO ORDERED.

8 DATED: November 21, 2022.

9



CHIEF UNITED STATES DISTRICT JUDGE