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28IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIAJUANITA R. SANDERS,  
Plaintiff,

No. C 08-04530 CRB

**ORDER OF DISMISSAL**

v.

DAVID GURNETT,  
Defendant.

Plaintiff Juanita R. Sanders filed her *pro se* complaint on September 19, 2008. Plaintiff alleges that Defendants defrauded her through a pattern of racketeering activity. Plaintiff's complaint names five Defendants: (1) David Gurnett of United Mortgage Group, Inc.; (2) Johol Parminder of United Mortgage Group, Inc.; (3) Option One Mortgage Corporation; (4) CT Corporation System; and (5) Wells Fargo Bank. Plaintiff alleges that Defendants took advantage of her as an elderly woman in financing her mortgage.

All Defendants except for David Gurnett filed motions to dismiss. Plaintiff requested an extension of time to respond to Defendants' motions so that she could find counsel. The Court granted the request, and continued the hearing on the motions for approximately sixty days. See Nov. 18, 2008 Order. In January 2009, Plaintiff again requested an extension of time to respond. The Court granted a final extension of thirty days. See Jan. 28, 2009 Order. Plaintiff never filed an opposition to Defendants' motions. On March 23, 2009 the Court


1 granted Defendants' motions to dismiss, holding that Plaintiff had failed to state a federal  
2 claim. See Mar. 23, 2009 Order.

3 The remaining Defendant in the case is David Gurnett. On December 5, 2008, service  
4 was returned unexecuted as to Mr. Gurnett. On April 7, 2009, the Court issued an Order to  
5 Show Cause, directing Plaintiff to file a declaration by May 8, 2009 explaining why the  
6 claim against Mr. Gurnett should not be dismissed. See Apr. 7, 2009 Order. On May 7,  
7 Plaintiff filed an ex parte request for an extension of time to respond to the Order to Show  
8 Cause.

9 Plaintiff's request is hereby DENIED. Pursuant to Federal Rule of Civil Procedure  
10 4(m), a plaintiff has 120 days to serve a complaint on a defendant. Here, far more time has  
11 passed since Plaintiff filed her complaint in September 2008, and Defendant David Gurnett  
12 has still not been served. Under Rule 4(m), the Court "must dismiss the action without  
13 prejudice" against Mr. Gurnett. The Court has been lenient in granting Plaintiff additional  
14 time throughout the course of these proceedings, and Plaintiff has not shown good cause for  
15 the failure of service. Accordingly, Plaintiff's claims against David Gurnett are hereby  
16 DISMISSED without prejudice.

17 **IT IS SO ORDERED.**

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20 Dated: May 11, 2009

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE