

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JESS H. KRIEHN,)	Case No.: 5:12-CV-05611-LHK
)	
Plaintiff,)	ORDER DISMISSING CASE
v.)	WITHOUT PREJUDICE
)	
DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
)	

Plaintiff Jess H. Kriehn filed the complaint in this action on November 1, 2012. ECF No. 1. Under Federal Rule of Civil Procedure 4(m) (“Rule 4(m)”), a plaintiff’s failure to serve the defendant within 120 days of filing the complaint is grounds for dismissal without prejudice absent a showing of good cause. See Fed. R. Civ. P. 4(m).

In light of Plaintiff’s failure to serve the Defendant within 120 days as required by Rule 4(m), on February 4, 2013, the Court ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute. ECF No. 5 (“OSC”). The Court ordered that Plaintiff file a response to the OSC by March 4, 2013. The Court set a hearing on the OSC for March 20, 2013, at 2:00 p.m. The Court also advised Plaintiff that if Plaintiff failed to respond to the OSC and failed to appear at the March 20, 2013 hearing, Plaintiff’s case would be dismissed without prejudice for failure to comply with Rule 4(m).

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Plaintiff did not respond to the OSC. Plaintiff also did not appear at the March 20, 2013 hearing. In light of Plaintiff's failure to respond to the OSC and failure to appear at the OSC hearing, the Court hereby DISMISSES Plaintiff's case without prejudice for failure to comply with Rule 4(m). The Clerk shall close the file.

IT IS SO ORDERED.

Dated: March 20, 2013



LUCY H. KOH
United States District Judge