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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELIZABETH HERRERA,
Plaintiff,
v.
KELKRIS ASSOCIATES, INC., et al.,
Defendants.

Case No. 15-cv-04612-BLF

**ORDER TERMINATING CREDIT
BUREAU SYSTEMS, INC.'S MOTION
TO DISMISS AS MOOT; AND
ORDERING PLAINTIFF TO SHOW
CAUSE WHY DEFENDANT CREDIT
BUREAU SYSTEMS, INC. SHOULD
NOT BE DISMISSED FOR FAILURE
TO EFFECT TIMELY SERVICE OF
PROCESS**

[Re: ECF 73]

The motion to dismiss filed by Defendant Credit Bureau Systems, Inc. and set for hearing on July 7, 2016, ECF 73, is TERMINATED AS MOOT in light of Plaintiff's subsequent filing of a first amended complaint, ECF 82.

On April 5, 2016, the Court approved a stipulated order submitted by Plaintiff and Defendant Credit Bureau Systems, Inc. which voided service of process against Defendant Credit Bureau Systems, Inc. *See* Order Approving Stipulation to Void Service of Process, ECF 84. The stipulated order provided that Plaintiff would file a new proof of service showing service of process on Defendant Credit Bureau Systems, Inc. Plaintiff has not done so and the deadline for serving Defendant Credit Bureau Systems, Inc. has expired. *See* Fed. R. Civ. P. 4(m).¹

¹ Rule 4(m) was amended, effective December 1, 2015, to shorten the time for service from 120 days to 90 days. This Court applies the 120-day rule that was in effect when Plaintiff filed the complaint on October 6, 2015. *See Malibu Media, LLC v. Doe*, No. C 15-04443 WHA, 2016 WL 3383759, at *1 n.* (N.D. Cal. June 20, 2016) (applying prior version of Rule 4(m) to complaint filed prior to amendment's effective date).

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Accordingly, Plaintiff is ORDERED TO SHOW CAUSE, in writing and on or before July 11, 2016, why Defendant Credit Bureau Systems, Inc. should not be dismissed for failure to effect timely service of process.

IT IS SO ORDERED.

Dated: June 27, 2016


BETH LABSON FREEMAN
United States District Judge