

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HERGUAN UNIVERSITY,
Plaintiff,
v.
JASON KANNO, et al.,
Defendants.

Case No. 16-CV-03619-LHK
ORDER TO SHOW CAUSE

For the reasons stated herein, the Court ORDERS Plaintiff to show cause why this action should not be dismissed due to Plaintiff's failure to prosecute.

Federal Rule of Civil Procedure 4(m) requires a plaintiff to serve a defendant within 90 day after the plaintiff files the complaint. A court must dismiss a case without prejudice if a plaintiff has not complied with Rule 4(m), unless the plaintiff shows good cause for its failure to serve defendant. FED. R. CIV. P. 4(m). Plaintiff filed its complaint on June 27, 2016. ECF No. 1. Under Rule 4(m), Plaintiff was required to have filed proof of service by September 26, 2016. "To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and

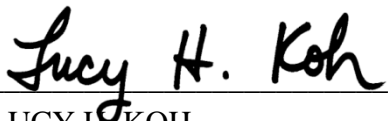
1 also serve the officer or employee.” FED. R. CIV. P. 4(i)(3). Although Plaintiff has exclusively
2 named individual officers or employees of the United States in the complaint, Plaintiff has not yet
3 served the United States.

4 Accordingly, the Court ORDERS Plaintiff to show cause why this action should not be
5 dismissed due to Plaintiff’s failure to comply with Rule 4(m). Plaintiff has until November 15,
6 2016 to file a response to this Order to Show Cause. The Court will hold an Order to Show Cause
7 hearing on December 1, 2016 at 1:30 p.m. Plaintiff’s failure to respond to this Order or failure to
8 appear at the December 1, 2016 hearing will result in dismissal of this action without prejudice.

9 The Case Management Conference scheduled for November 9, 2016 at 2:00 p.m. is hereby
10 continued until December 1, 2016 at 1:30 p.m. and will be held in conjunction with the Order to
11 Show Cause hearing scheduled for the same day and time.

12 **IT IS SO ORDERED.**

13
14 Dated: November 2, 2016

15 
16 _____
17 LUCY H. KOH
18 United States District Judge

19
20
21
22
23
24
25
26
27
28