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3 **UNITED STATES DISTRICT COURT**
4 **SOUTHERN DISTRICT OF CALIFORNIA**
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6 AZHAR ISKANDER,

7 Plaintiff,

8 vs.

9 ERIC H. HOLDER, United States
Attorney General, et al.,

10 Defendants.

CASE NO. 09cv1316-WQH-CAB

ORDER

11 HAYES, Judge:

12 On June 17, 2009, Plaintiff initiated this action by filing a Petition for Writ of
13 Mandamus ("Petition"). (Doc. # 1). On June 25, 2009, the Clerk of the Court issued the
14 summons. (Doc. # 2). No proof of service of the Petition and summons has been filed in this
15 action. Federal Rule of Civil Procedure 4 requires that a summons and complaint be served
16 "within 120 days after the filing of the complaint." Fed. R. Civ. P. 4(m). If a plaintiff fails to
17 serve the summons and complaint within 120 days, the court may dismiss the action without
18 prejudice after notice to the plaintiff. *See id.*

19 On October 27, 2009, the Court issued an Order to Show Cause, which stated:

20 This Order constitutes notice to Plaintiff that the Court will dismiss this action
21 without prejudice on **November 30, 2009**, unless, no later than that date,
22 Plaintiff files either: (1) proof that service of the summons and Petition was
timely effectuated, or (2) a declaration under penalty of perjury showing good
cause for failure to timely serve the Defendants, accompanied by a motion for
leave to serve process outside of the 120 day period.

23 (Doc. # 3). The docket reflects no case activity since the issuance of the Order to Show Cause.

24 IT IS HEREBY ORDERED that, pursuant to Rule 4(m), this action is **DISMISSED**
25 **WITHOUT PREJUDICE.**

26 DATED: December 17, 2009

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28 **WILLIAM Q. HAYES**
United States District Judge