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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 PAMELA T. JOHNSON,
12 Plaintiff,
13 v.
14 SHERIFF WILLIAM DAVID
15 GORE
16 Defendant.

Case No.: 17cv588-WQH-MDD

ORDER

17 HAYES, Judge:

18 On March 23, 2017, Plaintiff Pamela Johnson filed a Complaint against Defendant
19 Sheriff William David Gore. (ECF No. 1).

20 On December 26, 2017, the Court entered an Order stating:

21 Federal Rule of Civil Procedure 4(m) provides,

22 If a defendant is not served within 90 days after the complaint is filed, the
23 court--on motion or on its own after notice to the plaintiff--must dismiss the
24 action without prejudice against that defendant or order that service be made
25 within a specified time. But if the plaintiff shows good cause for the failure,
the court must extend the time for service for an appropriate period.

26 Fed. R. Civ. P. 4.
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1 This Order constitutes notice to Plaintiff that the Court will dismiss this action
2 against Defendant without prejudice unless, no later than January 19, 2018,
3 Plaintiff files either (1) proof that service of the summons and complaint was
4 timely effectuated or (2) a declaration under penalty of perjury showing good
5 cause for failure to timely effect service upon the Defendant accompanied by
6 a motion for leave to serve process outside of the 90-day period.

7 (ECF No. 19). On January 8, 2018, Plaintiff filed a letter stating that she mailed the
8 complaint to Defendant and attached certified mail receipts. (ECF No. 20).

9 Federal Rule of Civil Procedure 4(e)(2) requires service of a summons and complaint
10 by

11 (A) delivering a copy of the summons and of the complaint to the individual
12 personally;

13 (B) leaving a copy of each at the individual's dwelling or usual place of abode
14 with someone of suitable age and discretion who resides there; or

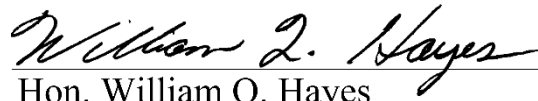
15 (C) delivering a copy of each to an agent authorized by appointment or by law
16 to receive service of process.

17 Fed. R. Civ. P. 4(e)(2). In addition, Rule 4(e)(1) provides that an individual may be served
18 by "following state law for serving a summons in an action brought in courts of general
19 jurisdiction in the state where the district court is located or where service is made." Fed.
20 R. Civ. P. 4(e)(1). California law allows a plaintiff to serve a defendant by, among other
21 means, mailing a copy of the summons and complaint "together with two copies of the
22 notice and acknowledgment provided for in subdivision (b) and a return envelope, postage
23 prepaid, addressed to the sender." Cal. Civ. Proc. Code § 415.30.

24 Plaintiff does not assert that she served Defendant pursuant to any method described
25 Federal Rule of Civil Procedure 4(e)(2). Plaintiff has not provided the Court with sufficient
26 evidence to establish that her purported service by certified mail complied with Federal
27 Rule of Civil Procedure 4(e)(1) or any California statute governing service by mail.

1 Pursuant to Federal Rule of Civil Procedure 4(m), the Court will allow Plaintiff sixty
2 (60) days from date of this order to file either (1) proof that service of the summons and
3 complaint was timely effectuated or (2) a declaration under penalty of perjury showing
4 good cause for failure to timely effect service upon the Defendant accompanied by a motion
5 for leave to serve process outside of the 90-day period. If no cause is shown, the Court
6 will dismiss this case without prejudice.

7 Dated: January 18, 2018


8 Hon. William Q. Hayes
9 United States District Court