



1 Plaintiff now requests an additional 30 days to serve Defendants Giavanna Homeowners  
2 Association and SFR Investments Pool 1, LLC, arguing that good cause exists to extend time for  
3 service given that it was attempting to complete the ADR process with the Nevada Real Estate  
4 Division and that it inadvertently failed to calendar the deadline. Plaintiff further argues that  
5 Defendants are on notice of Plaintiff’s claims that the HOA sale was void given the ADR process  
6 and therefore will not be prejudiced by the extension. Finally, Plaintiff argues it will suffer extreme  
7 prejudice if the extension is not granted given that two of its claims may be barred by the applicable  
8 statutes of limitations.

9 **II. ANALYSIS**

10 Federal Rule of Civil Procedure 4(m)<sup>1</sup> establishes the time for service on domestic  
11 defendants:

12 If a defendant is not served within 120 days after the complaint is filed, the court—  
13 on motion or on its own after notice to the plaintiff— must dismiss the action  
14 without prejudice against that defendant or order that service be made 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.

15 The Court must extend the 120-day time limit of Rule 4(m) if the serving party shows good cause  
16 for failure to serve within 120 days. *Lemoge v. United States*, 587 F.3d 1188, 1198 (9th Cir. 2009).  
17 If the serving party does not show good cause, the Court has discretion to extend time for service,  
18 or to dismiss the complaint without prejudice. *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001).  
19 The Court’s discretion to extend time for service, or to dismiss without prejudice for failure to  
20 timely serve, is broad. *Id.*

21 Courts must determine on a case-by-case basis whether the serving party has shown good  
22 cause. *In re Sheehan*, 253 F.3d at 512. Generally, good cause is equated with diligence. *Townsel*  
23 *v. Contra Costa Cnty., Cal.*, 820 F.2d 319, 320 (9th Cir. 1987). A showing of good cause requires  
24 more than inadvertence or mistake of counsel. *Id.* “[A]t a minimum, good cause means excusable  
25 neglect.” *In re Sheehan*, 253 F.3d at 512 (quotation omitted).

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27 <sup>1</sup> Effective December 1, 2015, Rule 4(m) of the Federal Rules of Civil Procedure was amended  
28 to reduce the presumptive time for serving a defendant from 120 to 90 days. Given that the complaint in  
this case was filed on October 15, 2015, the Court is applying the 120-day rule.

1 Here, given Plaintiff's representations that Defendants are on actual notice of Plaintiff's  
2 claims due to the ADR process, that Defendants will not be prejudiced by the 30-day extension, and  
3 that Plaintiff would be severely prejudiced if its motion is denied, the Court finds that Plaintiff has  
4 established good cause for extending the time to serve Defendants. The Court therefore will grant  
5 Plaintiff's request for an additional 30 days from the date of this order to serve Defendants.

6 **III. CONCLUSION**

7 IT IS THEREFORE ORDERED that Plaintiff Nationstar Mortgage, LLC's Motion for  
8 Order Enlarging Time for Service of Process (ECF No. 6) is GRANTED, making the service  
9 deadline May 12, 2016.

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11 DATED: April 12, 2016

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15 **C.W. Hoffman, Jr.**  
16 **United States Magistrate Judge**