

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
DISTRICT OF NEVADA**

SURETEC INSURANCE COMPANY,)
)
 Plaintiff,)
)
 vs.)
)
 COLE-WILSON, INC., et al.,)
)
 Defendants.)
 _____)

Case No. 2:16-cv-02821-JAD-CWH
ORDER

Presently before the court is Plaintiff Suretec Insurance Company’s Motion for
Enlargement of Time to Effect Service of Process (ECF No. 5), filed on March 2, 2017.

Plaintiff requests a thirty-day extension of time to serve Defendants Cole-Wilson, Inc., Dan
E. Cole, John P. Wilson, and Michelle T. Wilson, arguing that it has attempted service multiple
times at multiple different addresses, but that it has been unable to serve the defendants. In support
of its motion, Plaintiff submits an affidavit by attorney David R. Johnson and supporting
documentation detailing the service attempts. Plaintiff’s current deadline for serving the
Defendants was March 7, 2017, thus, Plaintiff requested to its extension of time to serve before the
current deadline expired.

Rule 4(m) of the Federal Rules of Civil Procedure establishes the time for service on
domestic defendants:

If a defendant is not served within 90 days after the complaint is filed, the court—
on motion or on its own after notice to the plaintiff—must dismiss the action
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.

The court must extend the 90-day time limit of Rule 4(m) if the serving party shows good cause for
failure to serve within 90 days. *Lemoge v. United States*, 587 F.3d 1188, 1198 (9th Cir. 2009)

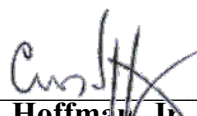
1 (citing version of Rule 4(m) with 120-day deadline). If the serving party does not show good
2 cause, the court has discretion to extend time for service, or to dismiss the complaint without
3 prejudice. *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001). The court’s discretion to extend time
4 for service, or to dismiss without prejudice for failure to timely serve, is broad. *Id.*

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

10 Here, Plaintiff has made numerous diligent efforts to serve Defendants and despite its
11 efforts, it has been unable to serve Defendants. The court therefore finds that Plaintiff has
12 demonstrated good cause to extend time to serve Defendants under Rule 4(m). The court grants
13 Plaintiff an additional 30 days from the date of this order to serve Defendants, making the service
14 deadline April 19, 2017.

15 IT IS THEREFORE ORDERED that Plaintiff Suretec Insurance Company’s Motion for
16 Enlargement of Time to Effect Service of Process (ECF No. 5) is GRANTED, making the service
17 deadline April 19, 2017, for all defendants.

18
19 DATED: March 20, 2017

20
21
22 
23

C.W. Hoffman, Jr.
United States Magistrate Judge