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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 JEREMY E. SIGAL,

Case No. 2:20-cv-00755-RFB-DJA

7 Plaintiff,

ORDER

8 v.

9 WENDY REMMERS, an individual;
10 SERGEANT NEDZA, an individual;
11 MICHAEL SWEETEN, an individual;
12 LIEUTENANT JACKSON, an individual;
13 SHELY CARRAO, an individual; ANNE
14 CARPENTER, an individual; OFFICER
15 NORDGREN, an individual; OFFICER
16 WOODWARD, an individual; BRIAN
17 WILLIAMS, an individual; JENNIFER
18 NASH, an individual; HUBBARD-PICKETT,
19 an individual; CCS TERNES MANUEL
20 PORTILLO, an individual; DWAYNE DEAL,
21 an individual; DOES I through X and ROE
22 CORPORATIONS I through X, inclusive,

23 Defendants.

24 This is a motion arising out of the removal of this case during Plaintiff's service of
25 summons. Plaintiff moves for the Court to set deadlines that the Federal Rules of Civil Procedure
26 already provide. Plaintiff's motion—unopposed by Defendants Anne Carpenter, Michael Sweeten,
27 Shelly Carrao, Michele Jackson, Dwayne Deal, Monique Hubbard-Pickett, Brian Williams, Jeremy
28 Bean, Troy Ternes, Manuel Portillo, and Jennifer Nash (the "Served Defendants")—is effectively
a request for an extension. Although the parties have ignored the rules, the Court sets a 45-day
deadline from the date of this Order for Plaintiff to finish serving the remaining defendants. The
Court also sets a 21-day deadline from the date of this Order for the Served Defendants to respond.
This matter is properly decided without a hearing. *See* LR 78-1.

1 **I. BACKGROUND**

2 This is the parties’ second request for the Court to set deadlines. The parties initially
3 requested that the Court “set a 90-day deadline for Plaintiff to complete service on the remaining
4 unserved Defendants...[and] a 60[-]day deadline for [the Served Defendants] to file a response to
5 the Complaint.” (ECF No. 11). The parties couched this request as a Joint Status Report and, after
6 filing it, stopped working on the matter altogether for over a year.

7 After receiving notice under Local Rule 41-1 that the Court would enter dismissal for want
8 of prosecution, Plaintiff filed the instant motion (ECF No. 13), again requesting 90 days to serve
9 the remaining defendants and 60 days for the Served Defendants to respond. Plaintiff asserts that
10 “The Federal Rules of Civil Procedure are vague and unclear” such that “the Parties need an Order
11 from the Court” providing a deadline to serve the remaining defendants and for the Served
12 Defendants to file a response. (ECF No. 13).

13
14 **II. DISCUSSION**

15 Contrary to the parties’ assertions, the Federal Rules are clear. Plaintiff had 90 days from
16 removal to serve defendants. *See* Fed. R. Civ. P. 4(m); *see Vasquez v. N. Cnty Transit Dist.*, 292
17 F.3d 1049 (9th Cir. 2002) (interpreting Fed. R. Civ. P. 4(m) prior to its 2015 amendment and
18 reasoning that the time frame for service began with removal). The Served Defendants had 21 days
19 after being served to file their responses. *See* Fed. R. Civ. P. 81(c)(2). For the remaining
20 defendants, Plaintiff should have referred to 28 U.S.C. § 1448, which describes how to effectuate
21 service on defendants in various stages of being served during removal. *See* 28 U.S.C. § 1448; *see*
22 *Beecher v. Wallace*, 381 F.2d 372, 372 (9th Cir. 1967).

23 Despite the rules’ clarity, the parties have missed these deadlines and their request that the
24 court “provide some clarification,” is effectively a request for an extension. The Court may grant
25 an extension even after a deadline has passed. *See* LR IA 6-1. But the party seeking that extension
26 must demonstrate that the failure to file before the deadline expired was the result of excusable
27 neglect. *See id.* Ignorance of court rules is not excusable. *See Briones v. Riviera Hotel & Casino*,
28 116 F.3d 379, 381 (9th Cir. 1997); *see Speiser, Krause & Madole P.C. v. Ortiz*, 271 F.3d 884, 886-

1 87 (9th Cir. 2011). On balance, the Ninth Circuit maintains a “commitment to deciding cases on
2 the merits wherever possible.” *U.S. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d
3 1085, 1092 (9th Cir. 2010).

4 The parties are obligated to follow the Federal Rules of Civil Procedure and the Local Rules
5 in litigating this matter. The Court will not tolerate future oversights of clear rules. However, in
6 the interest of moving this case forward, and in deciding the case on its merits,

7 IT IS HEREBY ORDERED that Defendant’s Motion to for Answer/Responsive Pleading
8 and Service Deadlines and for Related Relief (ECF No. 13) is **denied**.

9 IT IS FURTHER ORDERED that the Plaintiff has 45 days from the date of this Order to
10 complete service on the remaining defendants.

11 IT IS FURTHER ORDERED that the Served Defendants have 21 days from the date of this
12 Order to file responsive pleadings.

13 DATED: June 3, 2021.



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE