UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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PAUL M. YAKIN, Plaintiff, v. DR. GEORGE CYBULSKI and MICHAEL WALSH, Defendants.	)	3:10-CV-0248-LRH-RAM ORDER

Before the court is plaintiff Paul M. Yakin's ("Yakin") motion to re-open the case. Doc. #15.[1]

On May 26, 2010, Yakin filed a medical malpractice complaint against defendants. *See* Doc. #5. On December 15, 2010, Yakin's action was dismissed without prejudice for failure to serve defendants with a summons and complaint in accordance with Rule 4(m) of the Federal Rules of Civil Procedure. Doc. #13. Thereafter, Yakin filed the present motion to re-open this action.

In his motion, Yakin argues that the court should re-open this action because the defendants were properly served prior to court's order of dismissal. However, no proof of service has been filed with the court. Further, no summons were issued by the court as to the named defendants. Therefore, based on the record before the court, the court finds that defendants have not been

[1] Refers to the court's docket number.

served with the complaint and summons in accordance with Rule 4(m). Thus, the court finds that there is no basis to re-open this action and shall deny Yakin's motion accordingly.

IT IS THEREFORE ORDERED that plaintiffs' motion to re-open case (Doc. #15) is DENIED.

IT IS SO ORDERED.

DATED this 28th day of June, 2011.

LARRY R. HICKS
UNITED STATES DISTRICT JUDGE