

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MICHELLE KIRTON,

Plaintiff,

ORDER

-against-

16-CV-6539 (DLI)

U.S. DEPARTMENT OF JUSTICE, et al.,

Defendants.

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By Order dated May 2, 2017, this Court directed plaintiff to show cause, in writing, why the case should not be dismissed for failure to effect service within 90 days, pursuant to Fed. R. Civ. P. 4(m), and for lack of prosecution, pursuant to Fed. R. Civ. P. 41(b). See Order to Show Cause (May 2, 2017), Electronic Case Filing Docket Entry ("DE") #7. In response, counsel for plaintiff states that the failure to properly serve defendant U.S. Department of Justice was due to an oversight by the process server. See Response to Order to Show Cause (May 18, 2017) at 1, DE #9. Counsel further details the process server's multiple unsuccessful attempts to serve defendants U.S. Bureau of Prisons and Lt. Steven Barrere. See id. at 1-2. In light of the foregoing, this Court will not recommend dismissal at this time. However, it is counsel's obligation to ensure that defendants have been *properly* served, and counsel must proceed diligently to effect proper service on defendants. If plaintiff does not file affidavits showing proper service by June 23, 2017, this Court will recommend dismissal pursuant to Rule 4(m).

SO ORDERED.

**Dated: Brooklyn, New York
May 23, 2017**

/s/ Roanne L. Mann
**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**