

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA, STATE
OF TENNESSEE, STATE OF CALIFORNIA,
STATE OF MICHIGAN and KERI AKIN,

Plaintiffs,

v.

No. 14-1050

JASPAN MEDICAL SYSTEMS and
TINA B. JASPAN,

Defendants.

ORDER DISMISSING CASE WITHOUT PREJUDICE

This matter was initiated by the Plaintiff, Keri Akin, on behalf of the United States and *qui tam* states California, Michigan and Tennessee, on March 4, 2014 against the Defendants, Jaspán Medical Systems and Tina B. Jaspán. In November 2014, after the United States and the *qui tam* states declined to intervene herein, the Court unsealed the complaint and directed that service be effected on the Defendants. (D.E. 31-32.) According to the docket, no summonses were issued and the complaint was not served. On March 16, 2015, the Court directed Akin to show cause within eleven days why this case should not be dismissed under Rule 4(m) of the Federal Rules of Civil Procedure. (D.E. 33.) The Court also advised the Plaintiff that failure to timely respond to the order would result in dismissal of this matter without prejudice. The time period set forth by the Court has expired and no response has been filed.

Rule 4(m) provides that, "[i]f a defendant is not served within 120 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." As

the Court explained in its order, in a *qui tam* action, the 120-day period begins to run when the complaint is unsealed. The docket reflects that no filings have been made in this case, including a response to the show cause order, since the Court's March 16, 2015 directive. As the Plaintiff has not so much as attempted to establish good cause for her failure to comply with Rule 4(m), her complaint is DISMISSED without prejudice. *See Younker v. Ohio Dep't of Rehab. & Corr.*, No. 2:13-cv-746, 2014 WL 1764615, at *2 (S.D. Ohio Apr. 30, 2014) (where plaintiff made no attempt to demonstrate good cause for failure to comport with mandate of Rule 4(m), dismissal without prejudice warranted).

IT IS SO ORDERED this 1st day of April 2015.

s/ J. DANIEL BREEN
CHIEF UNITED STATES DISTRICT JUDGE