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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 FRANCIS H. RUBATINO JR.,

11 Plaintiff,

12 v.

13 NANCY A. BERRYHILL, Deputy  
14 Commissioner of Social Security for  
15 Operations,

16 Defendant.

CASE NO. 2:17-CV-01834-DWC

ORDER

17 Plaintiff Francis H. Rubatino Jr. filed the Complaint in this matter on December 8, 2017.  
18 Dkt. 3. The time for serving the summonses and Complaint expired on March 8, 2018, 90 days  
19 after the Complaint was filed. *See* Fed. R. Civ. P. 4(l), 4(m). By March 8, 2018, Plaintiff had not  
20 filed proof of service with the Court. *See generally* Dkt.

21 On March 12, 2018, the Court ordered Plaintiff to show cause why this case should not  
22 be dismissed without prejudice for failure to timely serve by March 19, 2018. Dkt. 6. Later that  
23 day, Plaintiff filed an Affidavit of Service of Summons and Complaint. Dkt. 7. However,  
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1 Plaintiff failed to respond to the Court's Order to Show Cause for why this case should not be  
2 dismissed for failure to timely serve by March 19, 2018. *See generally* Dkt.

3 Therefore, on March 20, 2018, the Court issued its Second Order to Show Cause, giving  
4 Plaintiff until March 23, 2018 to show cause why this case should not be dismissed without  
5 prejudice for failure to timely serve. Dkt. 8. On March 22, 2018, Plaintiff's attorney submitted a  
6 Response to the Order to Show Cause and a Declaration, stating a staffing change and erroneous  
7 application of prior service rules – which allowed for service within 120 days – contributed to  
8 the failure to timely serve. Dkt. 9.

9 Upon review of Plaintiff's response and the record, the Court concludes Plaintiff has  
10 shown cause for failing to serve the summons and Complaint.

11 Dated this 27th day of March, 2018.

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14 David W. Christel  
15 United States Magistrate Judge  
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