

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RACHEL WHITTLESEY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE TREASURY,

Defendant.

CASE NO. C17-5362RBL

ORDER TO SHOW CAUSE

THIS MATTER is before the Court on its own motion. Plaintiff Whittlesey filed this action on May 16, 2017. She initially sought *in forma pauperis* status but paid the filing fee the same day. She also sought the appointment of counsel, which was denied [Dkt. # 8]. In the meantime, Plaintiff filed a summons with the court, but it does not indicate that it or the complaint were served on the defendant. Indeed, there is no proof of service in the file.

Under the Federal Rules of Civil Procedure, a plaintiff must serve her complaint on the defendant within 90 days of filing it in court:

(m) Time Limit for Service. If a defendant is not served within 90 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. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

1 The Advisory Committee Notes to this Rule reiterate that the 90 day requirement is to be applied
2 flexibly, and should not be applied where doing so would cause prejudice:

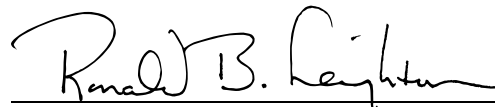
3 [Rule 4(m)] explicitly provides that the court shall allow additional time if there is good
4 cause for the plaintiff's failure to effect service in the prescribed [90] days, and
5 authorizes the court to relieve a plaintiff of the consequences of an application of this
6 subdivision even if there is no good cause shown..

7 (Time period reflects 2015 rule change). *See also*, for example, *In re Sheehan*, 253 F.3d 507, 512
8 (9th Cir. 2001) (Upon a showing of good cause, the Court must extend the period; and even
9 absent a showing of good cause, the court has discretion to extend the period). The period for
10 service has expired.

11 Plaintiff Whittlesey is therefore **ORDERED to SHOW CAUSE in writing within 10**
12 **days** why she has not affected proper service on the defendant under the Rules, and to
13 demonstrate why the Court should in any event extend the period for service. If she does not do
14 so this matter will be dismissed.

15 IT IS SO ORDERED.

16 Dated this 4th day of October, 2017.

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18 Ronald B. Leighton
19 United States District Judge
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