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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NADIA ROBERTS, et al.,

Plaintiffs

v.

UBS AG, et al.,

Defendants.

Case No. 1:12-cv-00724-LJO-SKO

**ORDER DISMISSING WITHOUT
PREJUDICE DEFENDANTS
SCHUMACHER AND RICKENBACHER
FOR FAILURE TO FILE PROOFS OF
SERVICE**

On May 3, 2012, Plaintiffs Nadia Roberts, et al. ("Plaintiffs") filed a complaint, and the Second Amended Complaint was filed on February 21, 2013. (Docs. 2, 33.) On October 2, 2013, the Court issued an order requiring Plaintiffs to file either Proofs of Service or Notices of Dismissal as to Defendants Hansruedi Schumacher ("Schumacher") and Matthias Rickenbach ("Rickenbach") within ten (10) days of the date of the order. (Doc. 53.) Plaintiffs were informed that failure to comply with the Court's order may result in dismissal of these Defendants pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, which 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." (Doc. 48, 3:13-16 (citing Fed. R. Civ. P. 4(m).) (Doc.

1 53, 2:1-6.) Plaintiffs did not file either Proofs of Service or Notices of Dismissal. Plaintiffs had
2 also been previously informed by the Court that failure to comply with Rule 4(m) would result in
3 dismissal of the Defendants who had not yet been served. (See Doc. 48, 3:13-22; Doc. 50,
4 3:26-4:2.)

5 Pursuant to Rule 4(m), where a defendant is not served within 120 days after the complaint
6 is filed, the court must dismiss the action as to that defendant without prejudice. Here, more than
7 120 days have passed and there is no evidence that Schumacher and Rickenbach have been served.
8 The case is DISMISSED without prejudice as to Defendants Schumacher and Rickenbach.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Defendants Hansruedi Schumacher and Matthias Rickenbach are DISMISSED
11 without prejudice; and
- 12 2. The Clerk of the Court shall not administratively close this action.

13
14 IT IS SO ORDERED.

15 Dated: October 25, 2013

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE