

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DIANA NAPOLIS,

Plaintiff,

vs.

MICHAEL AQUINO, et al.,

Defendants.

CASE NO. 08cv557 WQH (NLS)

ORDER

HAYES, Judge:

On July 18, 2008, Plaintiff filed the Ex Parte Application Requesting Permission to Extend Time for Service of Process (Doc. # 8). Plaintiff moves to extend the time for service of process beyond the 120 day period prescribed in Rule 4 of the Federal Rules of Civil Procedure on grounds that there is good cause for failure to serve defendants within the specified 120 days. In support of the Ex Parte Application, Plaintiff submitted her declaration, where Plaintiff attests that she has made significant efforts over the past four months to discover an address where she can serve the defendants. Plaintiff attests that she believes that defendants Michael Aquino, Michelle Devereaux, Mark Sauer and Tanya Lysenko are avoiding legal service, and that she is still attempting to effect service on defendant Carol Hopkins. Plaintiff attests that defendants Elizabeth Loftus and San Diego State University have been served, and that she "is dismissing Defendant David Copley from this complaint." *Napolis Decl.*, ¶ 11.

Rule 4(m) of the Federal Rules of Civil Procedure provides:


If a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service

1 be made within a specified time. But if the plaintiff shows good cause for the failure,
2 the court must extend the time for service for an appropriate period.

3 FED. R. CIV. P. 4(m).

4 The Court concludes that Plaintiff has shown good cause for failing to serve Defendants
5 Aquino, Devereaux, Lysenko, Hopkins and Sauer. The Ex Parte Application Requesting Permission
6 to Extend Time for Service of Process (Doc. # 8) is **GRANTED** with respect to Defendants Aquino,
7 Devereaux, Lysenko, Hopkins and Sauer. The Court extends that time to serve Defendants Aquino,
8 Devereaux, Lysenko, Hopkins and Sauer to September 8, 2008. Plaintiff must filed proof of service
9 with respect to these defendants **on or before September 8, 2008**, or these defendants will be
10 dismissed without prejudice.

11 DATED: July 23, 2008

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13 **WILLIAM Q. HAYES**
14 United States District Judge
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