

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

v.

CASE NO.8:14-cv-2341-T-23EAJ

JOHN DOE,

Defendant.

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ORDER

On September 17, 2014, the plaintiff sued (Doc. 1) the defendant. Rule 4(m), Federal Rules of Civil Procedure, allows the plaintiff 120 days from the filing of the complaint to serve the defendant. The time for the plaintiff to serve the defendant expired on January 15, 2015. On January 14, 2015, the plaintiff moved (Doc. 10) for an extension of time to serve the defendant. Under Rule 4(m), Federal Rules of Civil Procedure, an extension is granted only if the plaintiff “show[s] good cause for the failure” to serve.

The plaintiff fails to show good cause. For example, the plaintiff states, “Plaintiff issued [a] subpoena on December 2, 2014, and is expecting to receive the response on January 16, 2015.” (Doc. 10 at 2) Seventy-six days passed between the start of this action and the issuance of the plaintiff’s subpoena, and the plaintiff offers

no reason for the delay. Accordingly, the plaintiff fails to offer sufficient information to determine whether the plaintiff pursued this action with due diligence.

Although the plaintiff fails to “show good cause for the failure,” “Rule 4(m) requires that, before the court may dismiss for failure to serve, the plaintiff must be given notice of the possibility of dismissal and afforded an opportunity to show good cause for the failure to serve.” *Moore’s Federal Practice*, Vol. 1, § 48.1[2] (3d ed. 2013). No later than **JANUARY 22, 2015**, the plaintiff must show why this action should not be dismissed. In the response, the plaintiff must account for all 120 days.

ORDERED in Tampa, Florida, on January 15, 2015.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE