

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hernandez v. County of Fresno

Hernandez · No. 1:22-cv-01145-ADA-EPG · Decided August 2, 2023

SUMMARY

The United States District Court for the Eastern District of California granted Plaintiffs’ motion to enlarge the time to serve individual defendants in an action alleging failures to prevent and end abuse suffered in foster care. The court extended the service deadline to October 31, 2023, vacated the noticed hearing, and directed the Clerk to add Elizabeth Sandate as a defendant.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 2, 2023
DOCKET	1:22-cv-01145-ADA-EPG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 4(m) for additional time to serve individual defendants.
STANDARD OF REVIEW	The court exercised its discretion under Federal Rule of Civil Procedure 4(m) to determine whether to extend the time for service.
PRECEDENTIAL VALUE	Unknown
PARTIES	Veronica Hernandez, individually and as guardian ad litem for R.H. and M.H. v. County of Fresno, Christina Lara, Torres, Lakeisha Atkins, Marshunda Harding, Sergio Klassen, Annette Jones, Elizabeth Sandate

TOPICS

service of process

civil procedure

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether plaintiffs should receive additional time under Federal Rule of Civil Procedure 4(m) to serve the individual defendants.
2. Whether the court may grant an extension of time for service even without a showing of good cause.

HOLDINGS

1. The court granted plaintiffs an extension until October 31, 2023, to serve the seven individual defendants.
2. The court recognized that Rule 4(m) permits a district court to grant an extension even without good cause and exercised that discretion here.

KEY QUOTATIONS

“Additionally, the rule permits the district court to grant an extension even in the absence of good cause.” (at 2)

FACTUAL BACKGROUND

Veronica Hernandez, individually and as guardian ad litem for two minors, brought claims concerning alleged abuse suffered while the plaintiffs were in foster care. Plaintiffs had not served seven individual defendants and represented that they had been communicating with defense counsel about whether counsel would accept service. Plaintiffs also represented that the case was in its infancy and that an extension would not prejudice defendants or unduly delay the action.

PROCEDURAL HISTORY

Plaintiffs filed a first amended complaint on February 17, 2023, alleging that defendants failed to prevent and end abuse suffered while plaintiffs were in foster care. The individual defendants had not been served, and plaintiffs moved for a 90-day extension. The court granted the motion, vacated the noticed hearing, and extended the service deadline to October 31, 2023.

DISPOSITION

other

CASES CITED

- *Efaw v. Williams*, 473 F.3d 1038, 1040 (9th Cir. 2007)