

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KENDALL RUNNEBAUM,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 19-2151-KHV
)	
MAGELLAN HEALTHCARE, INC.,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

On March 18, 2019, plaintiff filed a complaint against defendant alleging unlawful employment practices in violation of 42 U.S.C. § 2000e-3 and the Kansas Act Against Discrimination, K.S.A. § 44-1001 et seq. Complaint (Doc. #1). As of June 17, 2019, the deadline for service under Rule 4(m), Fed. R. Civ. P., plaintiff had not served the summons and complaint on defendant. On July 10, 2019, Judge Birzer ordered plaintiff to show good cause in writing why the Court should not dismiss this action with prejudice for lack of prosecution under Rule 41(b), Fed. R. Civ. P. Notice And Order To Show Cause (Doc. #4). On July 24, 2019, plaintiff's counsel filed a response to the show cause order and the summons but did not file proof of service. On September 19, 2019, the Court found that dismissal with prejudice was not appropriate at that time and exercised its discretion to extend to October 1, 2019 the time for plaintiff to secure service of process on defendant. Memorandum And Order And Order To Show Cause (Doc. #6) at 4, 6.

Under Rule 4(m), Fed. R. Civ. P., a plaintiff has 90 days after the complaint is filed to serve a defendant with the summons and complaint. If a defendant is not served within 90 days, the Court may dismiss the action without prejudice or order that service be made within a specified time. Fed. R. Civ. P. 4(m).

Over seven months have passed since plaintiff filed the complaint. Despite the Court's permissive extension of the time for service, as of the date of this order, the docket does not reflect that plaintiff has effectuated service on defendant. The Court therefore dismisses this case without prejudice.

IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** for failure to serve defendant.

Dated this 25th day of October, 2019 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge