## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF LOUISIANA

MICHAEL JULIEN, SR.	*	CIVIL ACTION
VERSUS	*	NO: 10-0040
AGRICO CHEMICAL, INC., ET AL	*	SECTION: "D"(4)

## ORDER AND REASONS

Before the court is the "Motion [to Dismiss] for Insufficient Process, Insufficient Service of Process and Lack of Personal Jurisdiction, or, Alternative Motion for More Definite Statement and Order for Proper Service" (Doc. No. 6) filed by Defendant, Mosaic Fertilizer, LLC. <u>No memorandum in opposition was filed</u>. The motion, set for hearing on Wednesday, April 21, 2010, is before the court on Defendant's brief, without oral argument. Now, having considered the memorandum of Defendant's counsel, the record, and the applicable law, the court rules.

Plaintiff, Michael Julien, Sr., appearing *pro se*, filed his Complaint on January 7, 2010. Based on Mosaic Fertilizer's memorandum in support of its motion and the accompanying Affidavit of Cathy Robinson (Doc. No. 6-2), an employee at Mosaic Fertilizer, the court finds that there has been insufficient process and insufficient service of process on Defendant, Mosaic Fertilizer, LLC. Under Federal Rule of Civil Procedure 4(m), Plaintiff must serve Defendant within 120 days after the complaint was filed or the court must dismiss the action without prejudice against that defendant or order that service be made within a specified time. Because 120 days have not yet elapsed from the filing of Plaintiff's Complaint, the court finds that dismissal is not warranted at this time and thus the court **DENIES** at this time Defendant's Motion to Dismiss for Insufficient Process and Insufficient Service of Process.

However, the court **GRANTS** Defendant's Motion to the extent that it seeks an order for proper service, and the court **ORDERS** Plaintiff to properly serve Mosaic Fertilizer, LLC, with summons and his complaint, all within the requirements of Federal Rule of *Civil Procedure 4*, by <u>Monday, May 24, 2010</u>. The court finds that Defendant's incorporated Motion to Dismiss for Lack of Personal Jurisdiction and Motion for More Definite Statement are premature.

New Orleans, Louisiana, this 21st day of April, 2010.

UNITED STATES DISTRICT JUDGE