

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

BRELAND & FARMER DESIGNERS, INC.

PLAINTIFF

v.

NO. 3:09CV00017 JLH

PETE CANCELLA; TIM K. WATSON;
JOSH BROWN; and NATAUSHA BROWN

DEFENDANTS

ORDER

Tim K. Watson, Josh Brown, and Natausha Brown have filed motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure on the ground that they were not served with summons and complaint within the time required by Rule 4(m) of the Federal Rules of Civil Procedure. The complaint in this case was filed on February 12, 2009. Summons and complaint were served on June 22, 2009, which is 130 days after the complaint was filed. Rule 4(m) provides that 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 be made within a specified time. Rule 4(m) also provides that if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

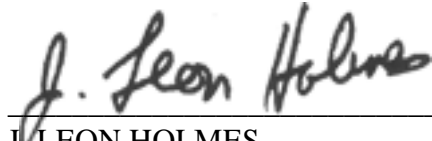
The plaintiff has responded by showing that it has been diligent in attempting to accomplish service of process. The plaintiff has demonstrated good cause for extending the time for accomplishing service of process. Because the plaintiff has shown good cause, the motions to dismiss are denied. Documents #6 and #7.

The plaintiff has also moved for a default judgment against Watson and for an order authorizing alternative modes of service. Those motions are denied. Document #19. Watson, as noted, was served on June 22, 2009. He filed a motion to dismiss on July 9, 2009. His motion was

within the time permitted by Rule 12 of the Federal Rules of Civil Procedure, so he is not in default.

The request for alternative service is denied as moot.

IT IS SO ORDERED this 27th day of July, 2009.

A handwritten signature in black ink that reads "J. Leon Holmes". The signature is written in a cursive style with a horizontal line underneath it.

J. LEON HOLMES
UNITED STATES DISTRICT JUDGE