

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

FREDERICK L. LOWE, JR.

PLAINTIFF

V.

4:08CV00429 JMM

AIMCO MANAGEMENT CO.

DEFENDANT

ORDER

Plaintiff filed his Complaint on May 14, 2008 against Aimco Management Co. (“Aimco”). On September 8, 2008, Plaintiff amended his Complaint against Aimco. Summons was issued on the same date.

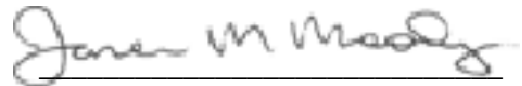
One month later, Plaintiff filed a Stipulation stating that she had served the Defendant and had given Aimco an additional sixty (60) days to file an Answer. The Court notes, however, that the pleading does not provide evidence that Aimco agreed to, or entered into, this stipulation. Further, Plaintiff failed to file an adequate proof of service as required by Rule 4(l). *See Fed. R. Civ. P. 4(l)(1)* (“Affidavit Required. Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server’s affidavit.”). Moreover, Rule 6(b) states that “the *court* may, for good cause shown, extend the time” to file a pleading. Fed.R.Civ. P. 6(b)(emphasis added). Therefore, Plaintiff’s stipulation to an extension of time for Aimco to file an answer has no legal effect. Aimco has not entered an appearance in the case.

On January 28, 2009, Plaintiff filed a Stipulation stating that the parties have a previous agreement to arbitrate claims and Plaintiff requests that the case be stayed pursuant to the Federal Arbitration Act. Again, the pleading does not provide evidence that Aimco agreed to, or entered into, this stipulation. Regardless, there is no proof of service in the case and Aimco has

not entered an appearance. The Court declines to order a stay of the case under these circumstances.

Plaintiff's Stipulation (Docket # 6) is deemed a Motion to Stay and is DENIED.

IT IS SO ORDERED this 4th day of February 2009.

A handwritten signature in cursive script, reading "James M. Moody". The signature is written in dark ink and is positioned above a horizontal line.

James M. Moody
United States District Judge