

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

TRUDY COLLISON

PLAINTIFF

v.

No. 4:10CV00233 JLH

BANK OF AMERICA; CALVARY PORTFOLIO
SERVICES, LLP; and ENHANCED RECOVERY CORP.

DEFENDANTS

ORDER

On August 19, 2010, the Court gave notice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure that this action would be dismissed without prejudice unless proof of service was filed on or before September 2, 2010, or the plaintiff established good cause for the failure to serve summons and complaint within 120 days after filing of the complaint. On September 2, 2010, the plaintiff filed three affidavits of service, in addition to a motion for default judgment and a brief in support of that motion.

The affidavits of service show that counsel for the plaintiff mailed a summons and complaint to Bank of America, Corporate Center, 100 North Tryon Street, Charlotte, NC 28255; Calvary Portfolio Services, Attn: Customer Care, 7 Skyline Drive, Hawthorne, NY 10532; and Enhanced Recovery Corporation, Corporate Headquarters, 8014 Bayberry Rd., Jacksonville, FL 32256.

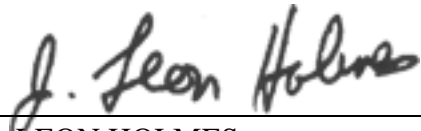
Rule 4(h) of the Federal Rules of Civil Procedure provides that service on a corporation may be accomplished in the manner for serving an individual under Rule 4(e) or by delivering a copy of the summons and complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive services of process. Rule 4(e)(1) provides for service by following state law. Rule 4 of the Arkansas Rules of Civil Procedure provides, in pertinent part, for service of summons and complaint by mail addressed to the person to be served with a return receipt

requested and delivery restricted to the addressee or the agent of the addressee, who must be a natural person identified by name.

Here, the plaintiff mailed the summons and complaint to corporate entities but did not comply with Rule 4 of either the Federal Rules of Civil Procedure or the Arkansas Rules of Civil Procedure. The plaintiff did not personally deliver a copy of the summons and complaint to any agent of the defendants, nor did she mail the summons and complaint to any named agent for the corporate entities with delivery restricted to the person identified by name.

Because plaintiff has not properly served the summons and complaint in accordance with Rule 4 of the Federal Rules of Civil Procedure or Rule 4 of the Arkansas Rules of Civil Procedure, and because the plaintiff has not explained a good reason for the failure to provide service within 120 days of the filing of the complaint, the motion for default judgment is denied, and this action is hereby dismissed without prejudice.

IT IS SO ORDERED this 28th day of September, 2010.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE