

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02624-MEH

ELECTRONIC PAYMENT SYSTEMS, LLC,

Plaintiff,

v.

ELECTRONIC PAYMENT SOLUTIONS OF AMERICA, INC.,
JAY WIGDORE,
MICHAEL ABDELMESSH, a/k/a Michael Stewart,
FIRST PAY SOLUTIONS, LLC,
FIRST DATA CORPORATION, and
WELLS FARGO BANK N.A.,

Defendants.

ORDER DISMISSING PARTIES

Michael E. Hegarty, United States Magistrate Judge.

This matter comes before the Court *sua sponte*. Plaintiff initiated this action against the Defendants on September 22, 2014; however, since that time, there has been no service on Defendants First Pay Systems, LLC and Richard Kuhlmann. At the March 16, 2015 status conference, Plaintiff's counsel informed the Court that Plaintiff was unable to serve these Defendants and, thus, would file a motion to dismiss the Defendants by March 18, 2015. However, the docket reflects no such motion.

Fed. R. Civ. P. 4(m) provides in pertinent part, "[i]f a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant." Here, the deadline for service was January 20, 2015. On January 26, 2015, this Court granted Plaintiff an additional 60 days within which to serve Defendants First Pay Systems, LLC and Richard Kuhlmann. Then, on March 16,

2015, Plaintiff notified the Court of its inability to serve the Defendants.

Accordingly, pursuant to Rule 4(m), Defendants First Pay Systems, LLC and Richard Kuhlmann are dismissed from this action without prejudice. The Clerk of the Court is directed to remove the Defendants and amend the caption as set forth above.

Dated at Denver, Colorado, this 30th day of March, 2015.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty
United States Magistrate Judge