

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SUNTRUST BANK,

Plaintiff,

v.

CASE NO.: 8:09-cv-2345-T-23TBM

BING CHARLES W. KEARNEY, JR.,

Defendant.

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ORDER

The plaintiff initiated this action on November 11, 2009. Because the plaintiff failed to file proof of service within one hundred twenty days after filing the complaint (as required by Rule 4, Federal Rules of Civil Procedure), an April 2, 2010, order directed the plaintiff shall show cause in writing why this action should not be dismissed for failure to serve and for failure to prosecute. In response, the plaintiff moves (Doc. 6) for (1) a sixty-day extension of the time in which to serve the defendant and (2) a sixty-day extension of time in which to file an "affidavit of diligence," which would show "at least six (6) attempts of service of [the] [d]efendant . . . on various dates at various locations." Although the plaintiff's motion for an extension is untimely, because the plaintiff asserts that the plaintiff "proceeded in good faith[] by attempting service at least six (6) times," the motion is **GRANTED IN PART**. The plaintiff shall file the affidavit no later than **April 28, 2010**. Upon the filing of the affidavit, the plaintiff shall have until **May 29, 2010**, to

file proof of service as to the defendant. Failure to timely file either an affidavit or proof of service will result in dismissal without further notice.

ORDERED in Tampa, Florida, on April 15, 2010.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE