

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

RUBEN C. FERNANDEZ-OLIVARES
Plaintiff,

vs.

5:10cv55/RS/MD

PMI EMPLOYEE LEASING, INC..
Defendants.

ORDER

This case is before the court upon plaintiff's notice to the court concerning service of process filed in response to the court's order of July 20, 2010. In his notice plaintiff confirms that he personally served the documents on PMI. Although he states that this was done "according to Fed.R.Civ.P.4(c)(2)," in fact that rule provides that "[a]ny person who is at least 18 years old and **not a party** may serve a summons and complaint." Therefore, service was improper for that reason.¹

Accordingly, it is ORDERED:

If plaintiff wishes to proceed with this action, he should request a summons from the clerk and have this action served in accordance with the relevant provisions of Fed.R.Civ.P. 4.

He should endeavor to ensure that this second attempt at service is complete and file proof thereof with the court within twenty-eight days from the date of this order.

¹There is insufficient information in the record for the court to determine whether Donna Johnson was authorized to receive service in behalf of PMI pursuant to Fed.R.Civ.P. 4(h).

DONE AND ORDERED this 28th day of July, 2010.

/s/ *Miles Davis*

**MILES DAVIS
UNITED STATES MAGISTRATE JUDGE**