

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60440-CIV-ZLOCH

SUPAFLY ENTERTAINMENT, INC.,
d/b/a SUPAFLY MUSIC, INC.,

Plaintiff,

vs.

FINAL ORDER OF DISMISSALIM MUSIC, INC., LONDELL SMITH,
and MARGO SIMMS,Defendants.

THIS MATTER is before the Court sua sponte. The Court has carefully reviewed the entire court file and is otherwise fully advised in the premises.

Plaintiff initiated this action with the filing of its Complaint on March 27, 2008. Through the course of this litigation, it has secured Judgments against Defendants IM Music, Inc. and Londell Smith. However, it has failed to effect service of process on Defendant Margo Simms. The Court previously extended the 120 day time line that governs service of process and gave Plaintiff leave to seek discovery as to Simms whereabouts. In doing so, the Court ordered Plaintiff to serve Simms by noon on September 5, 2008. As of the Court's deadline, Simms has not been served.

Plaintiff represents that it has made numerous attempts to serve Simms and conducted discovery on Simms' whereabouts. But those efforts have not been fruitful. It also claims that Simms'

co-defendants have refused to answer its interrogatories and deposition questions as to Simms whereabouts. However, Plaintiff has not filed a motion to compel or otherwise sought use of the Court's power to compel the co-defendants to provide answers to its discovery. Therefore, the Court finds no reason to further extend the deadline for serving Simms in this matter and will dismiss this action without prejudice for Plaintiff's failure to comply with Rule 4(m).

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. Pursuant to Federal Rule of Civil Procedure 4(m), the above-styled cause be and the same is hereby **DISMISSED**, without prejudice, as to Defendant Margo Simms; and

2. To the extent not otherwise disposed of herein, all pending motions are hereby **DENIED** as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 10th day of September, 2008.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished to:
All Counsel of Record