

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS

JOE HAND PROMOTIONS, INC., as Broadcast
Licensee of the **November 15, 2008, UFC #91**
Broadcast,
Plaintiff,
-against-

Civil Action No.09-CV-786-JPG
HON. J. PHIL GILBERT

THOMAS L. WORTHEN, Individually, and d/b/a
T.J.'s BAR a/k/a TJ's, and T.J.'s BAR a/k/a TJ's,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on the Motion of plaintiff Joe Hand Promotions, Inc. for an extension of time to serve the summons and complaint (Doc. 9). This case was filed October 1, 2009, and service has not yet been accomplished

Federal Rule of Civil Procedure 4(m) governs the time in which process must be served.

That rule provides, in pertinent part:

If 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 or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

Fed. R. Civ. P. 4(m). This rule requires a court to grant an extension if the plaintiff shows good cause, but leaves it to the court's discretion whether to grant an extension if the plaintiff shows excusable neglect. *Coleman v. Milwaukee Bd. of Sch. Directors*, 290 F.3d 932, 934 (7th Cir. 2002); *Panaras v. Liquid Carbonic Indus. Corp.*, 94 F.3d 338, 340-41 (7th Cir. 1996).

It is unclear whether the plaintiff has shown good cause. The affidavit submitted in

support of the plaintiff's motion states that the plaintiff has made diligent efforts to serve the defendants within 120 days, but does not describe those efforts. Nevertheless, even if good cause has not been established, the Court believes a short extension of time for service should be allowed. Therefore, the Court **GRANTS** the motion (Doc. 9) and **ORDERS** that the plaintiff shall have up to and including April 30, 2010, to serve the summons and complaint. The Court warns the plaintiff that it will not grant any future request for an extension of time under Rule 4(m) unless the plaintiff describes in detail the unsuccessful efforts at service such that the Court can determine whether they constitute diligent efforts.

SO ORDERED this 11th day of March 2010

s/ J. Phil Gilbert
HON. J. PHIL GILBERT
United States District Judge