

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

WHO DAT?, INC.

CIVIL ACTION

VERSUS

NO. 13-6543

WHO DAT SHOPPE! LLC and
RONALD DUNAWAY

SECTION "N" (4)

ORDER AND REASONS

Presently before the Court is the Plaintiff's, Who Dat?, Inc., Motion to Dismiss for Failure to Serve Process (Rec. Doc. 20). Plaintiff alleges that defendant failed, without good cause, to serve process on third-party defendants Steve Monistere, Sal Monistere, Ellis J. Paillet, Brandon J. Frank, and Gregory D. Latham within the required 120-day period under Rule 4(m) of the Federal Rules of Civil Procedure. Defendant concedes that there was no good cause for the failure. (Rec. Doc. 21).

Rule 4(m) provides: "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. The Court has discretion to extend the time period for service even if good cause is *not* demonstrated. *See Thompson v. Brown*, 91 F.3d 20, 21 (5th Cir. 1996); *see also Henderson v. United States*, 517 U.S. 654, 662-63, 116 S. Ct. 1638, 1645 (1996).

However, the Court does not find that the circumstances warrant such an extension. Therefore, the Motion to Dismiss for Failure to Serve Process (Rec. Doc. 20) is hereby **GRANTED**, and the third-party claims are **DISMISSED** without prejudice.

New Orleans, Louisiana, this 10th day of September 2014.



KURT D. ENGELHARDT
United States District Judge