

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

HENRY JONES

CIVIL ACTION

VERSUS

COLLECTION COMPANY OF AMERICA

NO.: 12-00572-BAJ

ORDER OF DISMISSAL

Plaintiff, Henry Jones ("Plaintiff"), filed his Complaint *pro se* against Defendant, Collection Company of America ("Defendant"), on September 17, 2012, alleging violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* On January 18, 2013, the undersigned ordered Plaintiff to show cause by January 30, 2013, as to why his claims should not be dismissed for failure to serve Defendant within 120 days of filing his Complaint, as required by Federal Rule of Civil Procedure ("Rule") 4(m)<sup>1</sup>, or obtain a waiver of service. (R. Doc. 5). Further, the undersigned unambiguously advised Plaintiff that failure to comply with the Show Cause Order could result in the dismissal of his Complaint without further notice.

Proper service of process is a mandatory prerequisite to file a suit in federal court. Rule 4(c)(1). However, an individual, corporation, or association that is subject to service may waive service of summons. Rule 4(d)(1). In absence of proper service of process,

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<sup>1</sup> Rule 4(m) states in relevant 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 appropriate period.

or waiver of service by the defendant, this court is without jurisdiction over the defendant and cannot proceed. *Murphy Brothers, Inc., v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350-51, 119 S. Ct. 1322, 143 L. Ed. 2d 448 (1999).

Here, Plaintiff failed to file a response to the Show Cause Order, nor has Plaintiff provided the Court with proof of service of the Complaint and summons. Further, Defendant has not filed an answer to the Complaint, or otherwise made an appearance in this matter.

Rule 12(b)(5) provides for dismissal of a claim if service of process is not made in accordance with the Rules. Here, nothing in the record indicates that Defendant has been properly served, or waived service of process. Further, the record reflects no circumstances that would warrant allowing Plaintiff more time to serve Defendant.

Accordingly,

**IT IS ORDERED** that Plaintiff's claims against Defendant are **DISMISSED**, without prejudice, for failure to comply with Rule 4(m), and the Show Cause Order (R. Doc. 5) issued by the undersigned on January, 18, 2013.

Baton Rouge, Louisiana, this 14th day of February 2013.



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**BRIAN A. JACKSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**