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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

JENNIFER SUE GORSKY DUNMIRE : DOCKET NO. 2:09-cv-131

VS. : JUDGE TRIMBLE

**UNITED SERVICES AUTOMOBILE : MAGISTRATE JUDGE KAY
ASSOCIATION, ET AL.**

REPORT AND RECOMMENDATION


According to LR 41.3W, “[a] civil action may be dismissed . . . for lack of prosecution . . . [w]here no responsive pleadings have been filed or default has been entered within 60 days after service of process” Although the record reflects that summons was waived as to United Services Automobile Association on March 11, 2009, this defendant has filed no Answer as of May 27, 2009. Doc. 8. Nor has plaintiff sought a default judgment against this entity.

It is THEREFORE RECOMMENDED that plaintiff’s claims be DISMISSED WITHOUT PREJUDICE as to defendant United Services Automobile Association. It is FURTHER RECOMMENDED that this defendant be TERMINATED from this action.

Pursuant to LR41.3W, plaintiff is allowed ten calendar days from the mailing of this notice to file evidence of good cause for failure to act. Additionally, under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), parties aggrieved by this recommendation have ten (10) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party’s objections within ten (10) days after being served with a copy of any objections or response to the District judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within ten (10) days following the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 2nd day of February, 2009 .



KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE