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

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| **LARRY TOLLIVER** | : | **DOCKET NO. 2:09-cv-313** |
| **VS.** | : | **JUDGE MINALDI** |
| **U-HAUL INTERNATIONAL, INC., ET AL.** | : | **MAGISTRATE JUDGE KAY** |

## 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." Plaintiff Tolliver filed the instant suit on February 26, 2009. The record reflects that plaintiff served all defendants and with answers due either March 23 or March 25, 2009. No defendant has filed an answer to plaintiff's complaint. Nor has plaintiff sought entry of a default against any defendant. It is THEREFORE RECOMMENDED that plaintiff's claims be DISMISSED WITHOUT PREJUDICE.

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 13th day of August, 2009.

KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE