

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KAREN KUTTKUHN,

Plaintiff,

v.

Case No. 10-cv-14629

Paul D. Borman

United States District Judge

QUICKEN LOANS, INC.,  
TROTT & TROTT, P.C., MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS, INC.,  
SUMMIT MORTGAGE, a Division of SHENANDOAH  
VALLEY NATIONAL BANK, a.k.a. TSS, LLC,  
GREEN TREE SERVICING, LLC, BANK OF AMERICA,  
INTERSTATE TILE, and HOMECOMINGS FINANCIAL,  
a.k.a. GMAC MORTGAGE,

Defendants.

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**ORDER DISMISSING UNSERVED DEFENDANTS**

On November 23, 2010, Plaintiff Karen Kuttkuhn filed a Certificate of Service (Dkt. No. 3) stating that Defendants Quicken Loans, Inc., Trott & Trott, P.C., Bank of America, N.A., and Mortgage Electronic Registration Systems, Inc., had been sent a copy of the Complaint and Summons in this case via United States mail.<sup>1</sup> It did not, however, contain any mention of Defendants Summit Mortgage, Green Tree Servicing, LLC, Interstate Title, or Homecomings Financial. The Docket contains no other certificates of service.

At the March 31, 2011 hearing on Defendants' Motions to Dismiss, the Court asked Plaintiff

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<sup>1</sup>The Court notes that in her Application to Proceed *In Forma Pauperis*, Plaintiff refused service of the Summons and Complaint by a United States Marshal.

if the Defendants not listed in the Certificate of Service were served with a Summons and Complaint. Plaintiff stated that she had spoken with an attorney for one of the Defendants, but that she had not sent any of them a Summons and Complaint by certified mail.

Federal Rule of Civil Procedure 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 . . .” The Complaint in this case was filed on November 22, 2010 – more than 120 days before the March 31, 2011 hearing. Based on the Court’s voir dire of Plaintiff at the hearing, the Court is satisfied that Plaintiff has received notice of the impending dismissal of these Defendants.

Accordingly, the Court will **DISMISS** Plaintiff’s Complaint **WITHOUT PREJUDICE** as to Defendants Summit Mortgage, Green Tree Servicing, LLC, Interstate Title, and Homecomings Financial, pursuant to Rule 4(m).

**SO ORDERED.**

S/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: April 1, 2011

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means and

**Karen Kuttkuhn**  
P O Box 53  
Highland, MI 48357

by U.S. Mail on April 1, 2011.

S/Denise Goodine  
Case Manager