

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRY M. JAGOS,

Plaintiff,

v.

XCELERATED INVESTMENTS, INC.,

Defendant.

Case No. 12-CV-11955

HON. GEORGE CARAM STEEH

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ORDER

On May 1, 2012, plaintiff filed this action alleging violations of the Fair Credit Reporting Act. On June 11, 2012, plaintiff filed a certificate of service showing the summons and complaint were sent to defendant at 2940 Hebron Park Drive, Suite 307, Hebron, Kentucky, 41048 by certified mail, return receipt requested. Rebecca Bowman signed the receipt form. Rebecca Bowman is not listed as an officer on the Kentucky Secretary of State's profile for defendant. The Kentucky Secretary of State's profile for defendant shows that defendant has designated Business Filings Incorporated as its registered agent, at 306 West Main Street, Suite 512, Frankfort, Kentucky, 40601.

As noted in this court's August 13, 2012 order, Federal Rule of Civil Procedure 4(h) provides the manner for serving a corporation. A corporation may be served by "following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made" or "by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any

other agent authorized by appointment or by law to receive service of process and – if the agent is one authorized by statute and the statute so requires – by also mailing a copy of each to the defendant.”

Defendant did not answer the complaint and plaintiff filed a motion for default judgment. However, because it did not appear that defendant was properly served, the court denied plaintiff’s motion for default judgment without prejudice and cancelled the hearing. The order instructed that plaintiff could “file a motion for default judgment after demonstrating proper service on defendant.”

On August 23, 2012, plaintiff filed a “response” to that order, asking the court to reconsider its order denying plaintiff’s motion for default judgment. Plaintiff argued defendant was aware of this case as evidenced by some email correspondence discussing settlement negotiations. However, plaintiff failed to demonstrate proper service on defendant as instructed by the order. The court therefore construed plaintiff’s response as a motion for reconsideration and denied the motion for reconsideration.

On October 24, 2012, plaintiff filed a motion for entry of default judgment. Plaintiff claims to have served defendant by certified mail to defendant’s registered agent. Plaintiff fails to provide any legal authority showing that certified mail is an acceptable method of service of the summons and complaint. In addition, plaintiff fails to provide an explanation as to why he is entitled to judgment on his claim for damages under the Fair Credit Reporting Act. Accordingly,

IT IS HEREBY ORDERED that plaintiff file a brief in support of his motion for default judgment providing legal authority showing that he properly served defendant and providing

legal authority showing that he is entitled to a judgment on his Fair Credit Reporting Act in the amount of \$6,350. Plaintiff shall file this brief by November 14, 2012.

Dated: October 29, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served on October 29, 2012, by U.S. mail, upon plaintiff at 6776 N. Burkhart Road, Howell, MI 48855, upon defendant at 2940 Hebron Park Drive, Suite 307, Hebron, Kentucky, 41048, and upon defendant's registered agent at 306 West Main Street, Suite 512, Frankfort, Kentucky, 40601.

s/Barbara Radke
Deputy Clerk