

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

ANTHONY DETORRE,

Plaintiff,

v.

Case No. 13-11116

HON. TERRENCE G. BERG

FEDERAL NATIONAL MORTGAGE
ASSOCIATION and FEDERAL
HOUSING FINANCE AGENCY,

Defendants.

**ORDER DISMISSING CASE WITHOUT PREJUDICE FOR FAILURE
TO COMPLY WITH ORDER REQUIRING FURTHER RESPONSE**

On March 13, 2013, Plaintiff filed this action seeking to set aside the Sheriff's sale of a piece of real property. On August 14, 2013, upon discovering that the case had been inactive since the date it was filed, the Court ordered Plaintiff to show cause, in writing, by August 21, 2013, why the case should not be dismissed for failure to prosecute.

On August 21, 2013, Plaintiff responded to the Court's Order, stating:

The undersigned Plaintiff's Counsel has had correspondence with Counsel for Defendants (Brian Stevens) who indicated that he was accepting service of the Complaint and who indicated that Defendants wish to file a Rule 12 Motion to Dismiss.

Based on this correspondence, the undersigned expects that a stipulated order will be forthcoming in the very near future with a deadline for Defendants to respond to the Complaint, along with a deadline for Plaintiff to respond to Defendants' proposed Rule 12 Motion.

(Dkt. 7, Pl.'s Resp. to Order to Show Cause). The Court deemed the response to be insufficient as it included no exhibits or documentation to support its representations.

Consequently, on August 23, 2013, the Court entered an Order Requiring Further

Response (Dkt. 8). Pursuant to that Order, Plaintiff was required to file, by no later than Wednesday, August 28, 2013, a valid proof of service and a stipulation containing dates for the filing of Defendants' answers or motions to dismiss and Plaintiff's responses thereto. The Order also clearly stated that "Failure to comply with this Order will result in the dismissal of the complaint."

Plaintiff has failed to file a valid proof of service or any stipulation containing dates for the filing of Defendants' answers or motions to dismiss as directed.¹ Plaintiff has thus failed to comply with the Court's August 23, 2013 Order. As of today's date, 176 days have passed since summonses were originally issued for the Defendants in this case. Plaintiff has had almost six months in which to serve the Defendants and provide the Court with proof of that service. Despite having been specifically ordered to file a valid proof of service, and having been advised that failure to do so would result in dismissal, Plaintiff has failed to complete this task.

Accordingly, as Plaintiff has failed to file any proof of service or the above-referenced stipulation, this case is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

Dated: September 5, 2013

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

¹ The Court notes that on August 27, 2013, attorney Brian C. Summerfield filed an appearance on behalf of Defendant Federal Housing Finance Agency and that on August 28, 2013, attorney Steven A. Jacobs filed an appearance on behalf of Defendant Federal National Mortgage Association. While these developments indicate that defendants are aware of this case, it does not substitute for proof of service or relieve Plaintiff's counsel of his obligation to comply with the Court's Orders. If Plaintiff did effect service of process on defendants and was in communication with defense counsel, then the failure to file a proof of service and stipulation as required by the Court's Order – even though Plaintiff would then have been in a position to do so – is all the more egregious and mystifying.

Certificate of Service

I hereby certify that this Order was electronically submitted on September 5, 2013, using the CM/ECF system, which will send notification to all parties.

s/A. Chubb
Case Manager