

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSS DESIGN & ENGINEERING, INC., ET AL.,
Plaintiffs,

No. 1:09-cv-1129

-v-

HONORABLE PAUL L. MALONEY

FIFTH THIRD BANK,
Defendant.

ORDER GRANTING PLAINTIFFS AN EXTENSION OF TIME TO SERVE
SUMMONS AND COMPLAINT

Plaintiffs initiated this action on December 15, 2009. A summons issued the same day. The record reflects no activity in the action between December 15 and March 25, 2010. On March 25, 2010, this court issued a notice of impending dismissal. (Dkt. No. 6.) The notice warned Plaintiffs that the action would be dismissed unless service of process was completed within 120 days after the complaint was filed. On April 13, 2010, Plaintiff filed a petition (Dkt. No. 7) in response to the notice.

Upon review of the petition and attached documents, pursuant to Fed. R. Civ. P. 4(m), Plaintiffs are **GRANTED AN EXTENSION** to serve Defendant with a copy of the summons and complaint. As explained below, the court finds good cause for granting the extension. Plaintiffs shall serve Defendant no later than May 13, 2010. **IT IS SO ORDERED.**

As documented in the petition, Plaintiffs' counsel and counsel at another law firm have been exchanging messages regarding the lawsuit. Plaintiffs claim to have mailed the complaint to one of Defendant's vice presidents. Plaintiff admits it has not served Defendant's resident agent. In one message, dated February 5, 2010, Plaintiff's counsel was informed by counsel at the other law firm that an appearance and answer in the lawsuit would be filed on February 26. That date passed without any submissions to the court. On April 6, 2010, counsel filed an appearance on behalf of Defendant Fifth Third. To date, no answer to the complaint has been filed. Because Plaintiffs were assured Defendant would file an appearance and answer, Plaintiffs had a reason not to pursue service of process on the registered agent. In the petition, Plaintiffs assert the registered agent would be served within 30 days of the date of the petition. On these facts, the court finds good cause for granting Plaintiffs an extension to complete service of process.

Date: April 19, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge