

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

QUANITA RHODES,)
)
 Plaintiff,)
 v.) Case No. 4:15-CV-01075 SNLJ
)
 MR. BULT’S, INC. and)
 RICKY DOUGLAS,)
)
 Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant Mr. Bult’s, Inc.’s motion to dismiss plaintiff’s amended complaint against defendant Ricky Douglas and plaintiff Quanita Rhodes’s request for a summons to be issued for defendant Ricky Douglas. The Court will grant the motion to dismiss and deny the request for summons.

On August 19, 2015, plaintiff filed her amended complaint adding defendant Ricky Douglas as a defendant. At that time, Federal Rule of Civil Procedure 4(m) provided:

Time Limit for Service. 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 or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Until the pending motion to dismiss was filed on December 23, 2015, plaintiff had not requested service of the summons and amended complaint on defendant Douglas.

Instead, plaintiff first requested the issuance of a summons in response to the motion to dismiss. At the time of the request for a summons, more than 120 days had elapsed from

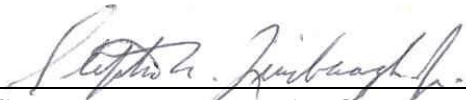
the filing of the amended complaint adding defendant Douglas as a party. Plaintiff's request fails to state good cause for the failure to serve defendant Douglas. In fact, the request does not state any reason for the failure to request the issuance of a summons or the failure to serve defendant Douglas within the time required by Rule 4(m). As a result, this Court will dismiss the action against defendant Douglas without prejudice.

Accordingly,

IT IS HEREBY ORDERED that defendant Mr. Bult's, Inc.'s motion to dismiss plaintiff's amended complaint against defendant Ricky Douglas (ECF #40) is **GRANTED**. Defendant Ricky Douglas is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER HEREBY ORDERED that plaintiff's request that a summons be issued for defendant Ricky Douglas (ECF #41) is **DENIED**.

Dated this 5th day of January, 2016.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE