

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:09cv221

LORETTA MOSELEY,)
)
 Plaintiff,)
)
 vs.)
)
 FILLMORE COMPANY, LTD., YUSA)
 NORIYUKI, and ED ROMAN)
 ENTERPRISES, INC.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court *sua sponte* to provide the Plaintiff with notice pursuant to Federal Rule of Civil Procedure 4(m).

On June 15, 2009, the Plaintiff initiated this action by filing a complaint. [Doc. 1]. On June 18, 2009, counsel was notified that summonses had not been submitted for process. On October 6, 2009, summons issued as to Defendant Ed Roman Enterprises, Inc. [Doc. 5]. Summonses have not issued as to the other defendants.

To date, the Plaintiff has not filed proof of service. Federal Rule of Civil Procedure 4 provides:

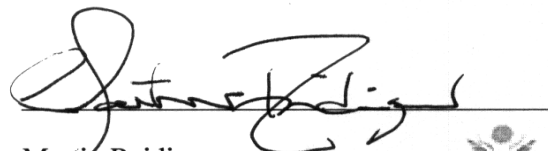
If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed.R.Civ.P. 4(m).

While the Court recognizes that the summons was not issued as to Defendant Ed Roman Enterprises, Inc. until October 6, 2009, counsel was notified on June 18, 2009 that they had failed to submit proper summonses for all Defendants. Plaintiff is hereby placed on notice that unless good cause is shown for the failure to effect service of the summons and complaint on the Defendants, this action shall be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that on or before fifteen (15) days of entry of this Order, the Plaintiff shall show good cause for the failure to effect service on the Defendants.

Signed: October 21, 2009


Martin Reidinger
United States District Judge

