

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

CIVIL CASE NO. 1:10cv93

HATTIE CALDWELL DAVIS,)
)
 Plaintiff,)
)
 vs.)
)
 WAYNE T. CALDWELL and)
 RANDOM HOUSE, 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 April 30, 2010, the Plaintiff initiated this action by filing a complaint. [Doc. 1]. On May 4, 2010, summons issued as to each Defendant and counsel was instructed to print and serve in accordance with Federal Rule of Civil Procedure 4. [Doc. 3; Doc. 4].

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

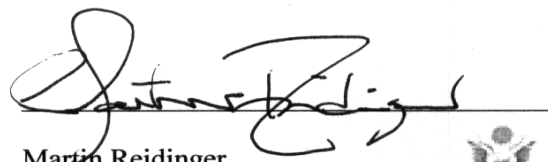
after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

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

Although the 120 day period within which to effect service has expired, proof of service has not been entered in the record. Plaintiff is hereby placed on notice that unless good cause is shown for the failure to effect service of the summons and complaint on each of 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 each of the Defendants.

Signed: September 7, 2010


Martin Reidinger
United States District Judge 