

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:13-cv-00620-FDW-DSC**

**STEVEN MICAH LEE & YVETTE R.)
LEE,)
)
 Plaintiffs,)
)
vs.)
)
HILLDRUP COMPANIES, INC.,)
)
 Defendant.)**

ORDER

THIS MATTER is before the Court *sua sponte* regarding Plaintiffs Steven Micah Lee and Yvette R. Lee’s failure to provide proof of service on Defendant Hilldrup Companies, Inc. within the required time period. Plaintiffs filed their Complaint in this case on November 12, 2013, and on November 19, 2013, the Clerk’s Office electronically issued summons to Plaintiffs for Plaintiffs to serve on Defendant. (Doc. No. 1, 2). After 120 days had elapsed without evidence of service, the Court issued a Show Cause Order March 24, 2014, ordering Plaintiffs to show cause by April 11, 2014, why service was not completed within the required time limit, or, if Defendant had been served, to provide an affidavit of service within that time. (Doc. No. 3). The Court has received no response and can only conclude service has not taken place.

Rule 4(m) of the Federal Rules of Civil Procedure provides, “If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own motion after notice to the plaintiff—must dismiss the action without prejudice” Furthermore, absent a showing of good cause, failure to serve a defendant within this time frame permits the Court to “dismiss the action without prejudice” Fed. R. Civ. P. 4(m). Plaintiff has failed to

demonstrate whether Plaintiff has complied with Rule 4(m) even after the Court provided Plaintiff an opportunity to show cause.

Accordingly, Plaintiffs' case is DISMISSED without prejudice and the Clerk is respectfully directed to CLOSE THE CASE.

IT IS SO ORDERED.

Signed: April 14, 2014

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

