

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:16-cv-00702-FDW-DCK**

EYETALK365, LLC,)
)
 Plaintiff,)
)
 vs.)
)
 SKYBELL TECHNOLOGIES, INC.,)
)
 Defendant.)
)


ORDER

THIS MATTER is before the Court *sua sponte* for Plaintiff Eyetalk365, LLC’s failure to serve Defendant Skybell Technologies, Inc. within the required time frame. Plaintiff filed its Complaint (Doc. No. 1) on October 3, 2016, and the Clerk’s Office electronically issued summons to Plaintiff (Doc. No. 5) on October 4, 2016, for Plaintiff to serve on Defendant. As of January 31, 2017, this Court has not received an affidavit of service from Plaintiff.

Rule 4(m) of the Federal Rules of Civil Procedure requires service to occur within 90 days after a complaint is filed. Over 90 days have elapsed since Plaintiff’s Complaint was filed, and Plaintiff has failed to provide proof of service. While “failure to prove service does not affect the validity of service,” FED. R. CIV. P. 4(1)(3), without proof of service, the Court can only conclude that service has not taken place. Absent a showing of good cause, failure to serve a defendant within this time frame permits the Court to “dismiss the action without prejudice against that defendant” FED. R. CIV. P. 4(m). Accordingly, Plaintiff is hereby ORDERED to show cause by Wednesday, February 8, 2017, why service was not completed within the required time limit, or, if Defendant has been served, to provide an affidavit of service within that time.

IT IS SO ORDERED.

Signed: January 31, 2017



Frank D. Whitney
Chief United States District Judge

