

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

AURELIO SANTIBANEZ
MARICHE, *et al.*,

Plaintiffs,

v.

Civil Action 2:13-cv-0979
Judge Edmund A. Sargus
Magistrate Judge Elizabeth P. Deavers

WALBERT TRUCKING,
INC., *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Plaintiffs filed their Complaint in this action on October 1, 2013. A summons was issued to Defendant, Walbert Trucking, Inc., on October 1, 2013 but, to date, has not been returned as executed. (ECF No. 2.) Summonses have not been completed or issued to the other Defendants. On February 11, 2014, the Court ordered Plaintiffs to show cause why the Court should not dismiss this action for failure to effectuate service pursuant to Rule 4(m). (ECF No. 3.) To date, Plaintiffs have not responded to the Court's Show Cause Order. Nor have Plaintiffs attempted to perfect service over Defendants. It is therefore **RECOMMENDED** that the Court dismiss this action without prejudice pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in

question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Response to objections must be filed within fourteen (14) days after being served with a copy.

Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).

IT IS SO ORDERED.

Date: March 10, 2014

/s/ Elizabeth A. Preston Deavers
Elizabeth A. Preston Deavers
United States Magistrate Judge