

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

ALLEN RAINES,)	Civ. 08-1016-AWB
ERLENE RAINES)	
)	
Plaintiffs,)	
)	
vs.)	
)	
RONALD HOLLINGSWORTH,)	
JACK VON WALD,)	RULE 4(m) NOTICE
LONALD L. GELLHAUS,)	
CARLYLE RICHARDS,)	
MARK MCNEARY,)	
LORI EHLERS,)	
KIMBERLY DORSETT,)	
TONY PORTA, and)	
SCOTT MYREN, in all their individual)	
and official capacities)	
)	
Defendants.)	

Plaintiffs filed a complaint in the above-entitled action on August 28, 2008. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiffs have 120 days to serve the summons and complaint on the Defendants. Defendants has not been served.¹ Rule 4(m) states in pertinent part:

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.

¹ Service by mail is not sufficient service under Rule 4, unless the Defendant signs a waiver of service. Personal service can be accomplished pursuant to the laws of South Dakota. For example, the summons and complaint can be served by the U.S. Marshals Service on each Defendant.

Fed. R. Civ. P. 4(m). Approximately 40 days have lapsed since the filing of this complaint. Plaintiff is on notice of this court's intention to dismiss this action without prejudice if service of the summons and complaint is not made upon the Defendants. Accordingly, it is hereby

ORDERED that Plaintiff shall make service of the summons and the complaint upon the Defendants on or before December 27, 2008, or this matter shall be dismissed without prejudice pursuant to Rule 4(m), unless Plaintiff can show good cause for its failure to serve the defendant.

Dated October 9, 2008.

BY THE COURT:

/s/ Andrew W. Bogue

ANDREW W. BOGUE
SENIOR DISTRICT JUDGE