IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CYRSTAL GARCIA,   §
                                         §
    Plaintiffs,   §
                                         §
v.   §   Civil Action No. SA-13-CV-333-XR
                                         §
PROCOLLECT SERVICES LLC,   §
                                         §
    Defendant.   §
                                         §

ORDER

On this date the Court considered the status of the above-captioned case. This case was commenced on April 23, 2013, when Plaintiff filed an original complaint in this Court. Even though over 120 days have passed since that filing, the Court has no record that Defendant ProCollect Services LLC has been properly served or has agreed to waive service. Rule 4(c) of the Federal Rules of Civil Procedure provides in pertinent part:

> The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

FED. R. CIV. P. 4(c)(1). Proof of service must be made to the court by filing the server's affidavit. FED. R. CIV. P. 4(l)(1). Rule 4 further provides that:

> 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.

1

FED. R. CIV. P. 4(m).

The 120-day time period for service has expired in this case. On May 28, 2013, ProCollect INC. filed an answer denying that it was the same entity as Defendant ProCollect Services LLC (Doc. No. 8). The Court currently has no indication that Defendant ProCollect Services LLC has been properly served or has agreed to waive service. Plaintiff is therefore ORDERED to show cause in writing on or before **SEPTEMBER 10, 2013,** why this case should not be dismissed under Rule 4(m). Failure to respond by that date will result in this case being dismissed.

It is so ORDERED.

SIGNED this 26th day of August, 2013.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE