

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**TRIUMPH SPORTS USA, INC.,**

**Plaintiff,**

**v.**

**Case No. 13-CV-53**

**ESCALADE SPORTS,**

**Defendant.**

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**ORDER DISMISSING CASE**

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The above-entitled action was filed on January 15, 2013. By order dated May 16, 2013, this court advised the plaintiff that court records indicated that it had not effected service upon the defendant and that the case appeared to be subject to dismissal, without prejudice, pursuant to Fed. R. Civ. P. 4(m) and Civil Local Rule 41(a) (E.D. Wis.). As a result, the plaintiff was ordered to show cause within twenty-one days as to why it had not effected service of process within the time required by Fed. R. Civ. P. 4(m).

Fed. R. Civ. P. 4(m) requires service of the summons and complaint within 120 days after the filing of the complaint. Civil Local Rule 41(a) provides:

Where the plaintiff has not effected service of process within the time required by Fed. R. Civ. P. 4(m), and the defendant has not waived service under Rule 4(d), after 21 days' notice to the attorney of record for the plaintiff, or the plaintiff if pro se, the Court may enter an order dismissing the action without prejudice.

By order dated May 16, 2013, the plaintiff was put on notice that unless service of process was effected upon the defendant within twenty-one days after receipt of that order, an order would be entered dismissing this action, without prejudice. A review of the records reveals that service of

process has not been effected on the defendant and the time for effecting service under Rule 4(m) has expired. Therefore, this action will be dismissed, without prejudice, pursuant to Civil Local Rule 41(a).

**NOW, THEREFORE, IT IS ORDERED** that this action be and hereby is **DISMISSED** without prejudice, pursuant to Civil Local Rule 41(a).

Dated at Milwaukee, Wisconsin this 11<sup>th</sup> day of June, 2013.

BY THE COURT

*s/Nancy Joseph*

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NANCY JOSEPH  
United States Magistrate Judge