

IN THE UTAH COURT OF APPEALS

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Kim Bowers,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	Case No. 20100158-CA
)	
v.)	F I L E D
)	(June 4, 2010)
Frank Coombs,)	
)	2010 UT App 147
Defendant and Appellee.)	

Fourth District, Provo Department, 090401637
The Honorable James R. Taylor

Attorneys: Kim Bowers, Payson, Appellant Pro Se

Before Judges McHugh, Thorne, and Voros.

PER CURIAM:

Kim Bowers appeals the district court's February 8, 2010 order dismissing her complaint without prejudice. Bowers asserts that the district court erred by dismissing her complaint and that she was deprived the right to a jury trial.

Rule 4(b) of the Utah Rules of Civil Procedure provides that when an action is commenced pursuant to rule 3(a)(1) of the Utah Rules of Civil Procedure, "the summons together with a copy of the complaint shall be served no later than 120 days after the filing of the complaint unless the court allows a longer period of time for good cause shown." Utah R. Civ. P. 4(b)(i). "If the summons and complaint are not timely served, the action shall be dismissed, without prejudice on application of any party or upon the court's own initiative." Id.

Bowers filed her complaint on May 5, 2009. Bowers concedes that she never served Coombs with the summons and complaint. Following the expiration of time period to serve Coombs, the district court set the matter for a case status hearing. Bowers requested that the district court cancel the hearing as she had not paid the filing fee or served Coombs. Based on Bowers's failure to timely serve Coombs and her failure to establish good cause for doing so, the district court dismissed the case without prejudice. See id. The record supports the district court's

determination to dismiss Bowers's complaint as required by rule 4(b)(i).

Accordingly, the district court's February 8, 2010 order is affirmed.

Carolyn B. McHugh,
Associate Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge