

FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES DEPARTMENT OF	)	
AGRICULTURE RURAL HOUSING SERVICE	)	
f/k/a FARMERS HOME,	)	
	)	
Plaintiff,	)	Civil No. 2006-206
	)	
v.	)	
	)	
LEROY W. MONSANTO, JR., and	)	
FELICITA RIVERA,	)	
	)	
Defendants.	)	
_____	)	

ATTORNEYS:

Matthew J. Duensing, Esq.
St. Thomas, U.S.V.I.
For the plaintiff,

Frank A. James
1113-26 Estate Solberg, St. Thomas, U.S.V.I. 00802
Pro se defendant.

ORDER

GÓMEZ, C.J.

The plaintiff in this matter, United States Department of Agriculture Rural Housing Service f/k/a Farmers Home ("UDSA"), commenced this debt and foreclosure action on November 17, 2006, against defendants Leroy W. Monsanto, Jr. ("Monsanto") and Felicita Rivera ("Rivera").

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There is no proof in the record in this matter that the USDA's complaint and summons were ever served on Monsanto.

Because there has been no proof of service on Monsanto within 120 days of the filing of the complaint, Monsanto may have to be dismissed from this matter for lack of timely service. See Fed. R. Civ. P. 4(m); see also *Sykes v. Blockbuster Video*, 205 Fed. Appx. 961, 963 (3d Cir. Nov. 15, 2006)(affirming the district court's dismissal where the plaintiff "clearly failed to serve [the defendant] within 120 days of filing his complaint, as required under Rule 4(m)") (unpublished).

Accordingly, it is hereby

ORDERED that the USDA, no later than December 15, 2008, shall show cause in writing why this matter should not be dismissed without prejudice with respect to Monsanto for lack of timely service.

S\ _____
CURTIS V. GÓMEZ
Chief Judge