

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**AYMAN A. DIFRAWI,
INTERNET SOLUTIONS CORPORATION**

Plaintiff,

-vs-

Case No. 6:07-cv-1854-Orl-22KRS

**LES HENDERSON, JOHN DOE #1 aka Klass
Devries, DANIEL BRUCE SCALF aka Frank
Torelli, JEREMY SCALF, JOHN DOE #2 aka
Dilly McGilly, JOHN DOE #3 aka Sooper Joo,
J O H N D O E # 4 a k a
www.easybackgroundcheck.com, and JOHN
DOE #5 aka www.truthaboutis.com**

Defendants.

ORDER

On May 1, 2008, the Court entered an order (Doc. No. 26) requiring Plaintiffs to show cause why this case should not be dismissed as to Defendants Jeremy Scalf, John Doe #1 a/k/a Klass Devries, John Doe # 2 a/k/a Dilly McGilly, John Doe # 3 a/k/a Sooper Joo, John Doe # 4 a/k/a www.easybackgroundcheck.com, and John Doe # 5 a/k/a www.truthaboutis.com, based on Plaintiffs' apparent lack of prosecution and failure to serve such Defendants with initial process within the time limit established by Fed. R. Civ. P. 4(m).

Rule 4(m), entitled "Time Limit for Service," provides in pertinent part as follows: "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.”

On May 15, 2008, Plaintiffs responded to the show-cause order. (Doc. No. 28.) However, Plaintiffs have not shown good cause for their failure to meet the 120-day deadline set forth in Rule 4(m). Plaintiffs state the whereabouts of these Defendants is unknown, but they provide no information whatsoever about what they did during the 120-day period to try to locate and serve these Defendants. With respect to the John Doe defendants (as distinguished from Defendant Jeremy Scalf), Plaintiffs state that they have issued subpoenas to third parties in an effort to locate these Defendants. However, they do not say when those subpoenas were issued (i.e., whether before or after entry of the show-cause order) and what efforts they undertook to try to find these Defendants before or after issuing the subpoenas. Finally, Plaintiffs offer no excuse whatsoever for their failure to serve Jeremy Scalf.

Based on the foregoing, it is ORDERED as follows:

1. Based on Plaintiffs’ failure to prosecute and failure to timely serve Defendants Jeremy Scalf, John Doe #1 a/k/a Klass Devries, John Doe # 2 a/k/a Dilly McGilly, John Doe # 3 a/k/a Sooper Joo, John Doe # 4 a/k/a www.easybackgroundcheck.com, and John Doe # 5 a/k/a www.truthaboutis.com, in accordance with Fed. R. Civ. P. 4(m), such Defendants are hereby DISMISSED, WITHOUT PREJUDICE, from this action.¹

¹Rule 4(m) does not apply to service in a foreign country. The Amended Complaint alleged, upon information and belief, that John Doe #1 a/k/a Klass Devries “resides either in Florida or in the Netherlands.” (Doc. No. 5, ¶ 6.) If Plaintiffs are able to establish that this Defendant is a foreign citizen, they can file a motion seeking relief from this Order.

2. Plaintiffs' request for additional time to serve these Defendants is DENIED, inasmuch as Plaintiffs have failed to demonstrate good cause.

DONE and ORDERED in Chambers, in Orlando, Florida on May 19, 2008.


ANNE C. CONWAY
United States District Judge

Copies furnished to:
Counsel of Record
Unrepresented Parties