

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ROGER ROMERO AND MONIQUE ROMERO,	§	
<i>Plaintiffs,</i>	§	
	§	
vs.	§	CIVIL ACTION H-06-0600
	§	
GOLDEN 1 CREDIT UNION,	§	
<i>Defendant.</i>	§	

**MEMORANDUM AND RECOMMENDATION**

Pursuant to Federal Rule of Civil Procedure 4(m), this court recommends on its own initiative that this case, a truth-in-lending action between two California plaintiffs and a California defendant, be dismissed without prejudice. At the initial scheduling conference held on July 20, 2006, plaintiffs' counsel informed the court that the defendant had still not been served with summons and complaint, even though more than 120 days have elapsed since plaintiffs' complaint was filed on February 22, 2006. Plaintiffs' counsel has failed to demonstrate good cause for his failure to comply with Rule 4(m). The initial pretrial conference for this case was reset once and continued once in order to allow time to serve defendant with summons and complaint. (Dkts. 5; 7). The only explanation offered for the failure to timely serve the defendant is a lack of follow-up by plaintiffs' counsel after defendant declined to waive service of process. This excuse is simply inadequate.

Therefore, this court RECOMMENDS that plaintiffs' case be DISMISSED without prejudice.

The parties have ten days from service of this Memorandum and Recommendation to file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* FED. R. CIV. P. 72.

Signed at Houston, Texas on July 21, 2006.

  
Stephen Wm Smith  
United States Magistrate Judge