



IT IS ORDERED as set forth below:

Date: June 17, 2011

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	CHAPTER 7
	:	
RONALD URBAEZ and	:	
VANESSA ARROYO URBAEZ,	:	BANKRUPTCY CASE
	:	NO. 10-95381-MGD
Debtors,	:	
	:	
CASHMART/AFSOON BAHRAINI,	:	ADVERSARY PROCEEDING
	:	11-05092
Plaintiff,	:	
	:	
v.	:	
	:	
RONALD URBAEZ and	:	
VANESSA ARROYO URBAEZ,	:	
	:	
Defendants.	:	
	:	

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

This case is before the Court on Defendants Special Appearance and Answer, Motion to Dismiss, and Sanctions Against the Plaintiff. (Docket No. 7). Plaintiff commenced the underlying adversary proceeding against Debtors on February 16, 2011, seeking a determination of the

dischargeability of a debt under § 523. A summons was issued on February 16, 2011. On March 2, 2011, Plaintiff filed an Motion for Emergency Hearing. The Court denied Plaintiff's motion on March 7, 2011 on the basis that Plaintiff had failed to properly effectuate service. No further action was taken by Plaintiff.

Local Rule 7005-1 provides:

The person serving process in an adversary proceeding or serving a motion initiating a contested matter with regard to which service on an opposing party is required shall make proof of service thereof promptly to the Bankruptcy Court in accordance with the Bankruptcy Rules. The Certificate of Service must include the name and address of all persons and parties served.

B.L.R. 7005-1, N.D. Ga. Plaintiff never filed a certificate of service in this action with respect to the summons and complaint. The Motion was improperly served under Rule 7004(b)(9) of the Federal Rules of Bankruptcy Procedure, which instructs that service of process on the debtor is effected by "mailing a copy of the summons and the complaint to the debtor at the address shown on the petition or to such address as the debtor may designate in a filed writing." FED. R. BANKR. P. 7004(b)(9).

"Perfection of service of process results in this [Court] obtaining jurisdiction over parties such that it can adjudicate their rights." *Ga. Lottery Corp. v. Hunt (In re Hunt)*, 2010 Bankr. LEXIS 762 (Bankr. N.D. Ga. Feb. 24, 2010) (citing *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442, 263 U.S. App. D.C. 300 (D.C. Cir. 1987) (citation omitted); *Fed. Trade Comm'n v. Compagnie de Saint-Gobain-Pont-A-Mousson*, 636 F.2d 1300, 1319, 205 U.S. App. D.C. 172 (D.C. Cir. 1980)). Because there is no evidence that service has been properly effectuated on Debtors, dismissing this action is warranted. Accordingly, it is

ORDERED that the Defendants' Motion to Dismiss is hereby **GRANTED**.

The Clerk is directed to serve a copy of this Order upon Plaintiff, Plaintiff's counsel, Defendants, and Defendants' counsel.

END OF DOCUMENT