

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>LAURA K. WHALEN,</b> <b>Plaintiff,</b>	)	
	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 1:21-00503-KD-N</b>
	)	
<b>TOYOTA MOTOR SALES,</b> <b>U.S.A., Inc.</b> <b>Defendant.</b>	)	
	)	

**ORDER**

This action is before the Court on a corrected motion to withdraw as counsel for Plaintiff, Laura K. Whalen, filed by attorney Brian A. Traywick of Shunnarah Trial Attorneys. (Doc. 23).<sup>1</sup> For reasons explained below, Traywick’s motion is **DENIED**. Should Traywick desire to refile his motion after resolving the deficiencies described below, he must do so no later than **November 9, 2022**.

Traywick filed his first motion to withdraw on October 17, 2022, citing an inability to get in touch with his client. (*See* Doc. 21). Specifically, Traywick stated, “[t]he plaintiff in this case has failed to contact the above counsel after counsel made several attempts to contact her.” (Doc. 21, PageID.109). The motion goes on to request the Court also “grant the Plaintiff 60 days to obtain a new [a]ttorney.” (*Id.*). Upon a review of his motion, this Court’s local rules and the associated Alabama Rules of Professional Conduct, the undersigned found Traywick had not established whether

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<sup>1</sup> The assigned District Judge referred the present motion to the undersigned Magistrate Judge for appropriate action under 28 U.S.C. § 636(a)–(b), Federal Rule of Civil Procedure 72, and S.D. Ala. GenLR 72(a). *See* S.D. Ala. GenLR 72(b); (10/25/2022 electronic reference).

reasonable notice was provided to his client. *See* S.D. Ala. GenLR 83(h) and 83(i); Ala. Rules of Prof. Conduct Rule 1.16. Specifically, the Court stated:

While Traywick has requested 60 days for his client to find a new attorney, he has not provided any indication that reasonable notice was provided to his client – nor whether any notice was provided at all. Thus, at a minimum, Traywick must inform Whalen of his intent to withdraw as counsel and communicate the basis for this decision with her. Understanding that a lack of communication is at the crux of his underlying motion, Traywick can accomplish the provision of reasonable notice by serving Whalen with a copy of the motion to withdraw (Doc. 21) at her last known address and providing the Court with proof of service to document this effort.

(*See* Doc. 22, PageID.113). The Court’s order also instructed Traywick to update the Court on the status of attorney Justin M. Taylor and to provide Whalen’s last known address for the Court’s records.

Traywick’s corrected motion (Doc. 23) attempts to comply with the Court’s order, but remains deficient, and the Court remains unconvinced that Plaintiff Laura K. Whalen has been given reasonable notice of Traywick’s intent to withdraw.

Traywick’s corrected motion (Doc. 23) explains that he “hired a process server on September 6, 2022, to make physical contact with the plaintiff,” and attaches the sworn affidavit of hired process server Russell Payne. (*See* Doc. 23-1). Payne’s affidavit, reproduced below, states in relevant part:

3. On 09/13/2022, I received a request to hand deliver a letter to Laura Walker, 625 Durden Rd., Prattville, AL 36067. The letter, dated September 6, 2022, was addressed to Laura K Whalen from Brian Traywick, Attorney for Alexander Shunnarah Personal Injury Lawyers and was in reference to attempting to contact Whalen regarding proceeding with her case.

4. I conducted database searches and confirmed 625 Durden Rd., Prattville, AL 36067 as a possible current address for Laura Walker.
5. On 09/15/2022, an attempt at service was made at 625 Durden Rd., Prattville, AL 36067. A person who identified herself as Donna Tadlock answered the door. Tadlock stated that Laura Walker was not currently home but would accept service of the letter and would make sure she got it.

(See Doc. 23-1, PageID.119).

Traywick also provides a copy of a certified letter mailed to Plaintiff on October 24, 2022, informing her of his intent to withdraw. The letter is addressed to Laura Whalen at 625 Durden Road, Prattville, AL 36067. (Doc. 23-1, PageID.122).

First, Payne's affidavit is clearly inconsistent, as it states that Payne "received a request to hand deliver a letter to Laura Walker," but notes the letter "was addressed to Laura K Whalen." (Doc. 23-1, PageID.119). The affidavit goes on to describe a database search for "a possible current address for Laura Walker," and the attempt at service where one Donna Tadlock answered the door and accepted the letter on behalf of "Laura Walker." (*Id.*).

Moreover, while Traywick represents Whalen's address to be 625 Durden Road in Prattville, AL (*see* Doc. 23, PageID.116), and the October 24, 2022, certified letter is addressed to Laura Whalen at this address (*see* Doc. 23-1, PageID.122), Payne's affidavit clearly states this location as a "possible current address for Laura Walker." (Doc. 23-1, PageID.119). Further calling into question whether this address belongs to Plaintiff Laura Whalen or to an uninvolved Laura Walker is the listing of Plaintiff's

County of residence in both the notice of removal (Doc. 1, PageID.2) and civil cover sheet (Doc. 1-1, PageID.10) as Perry County, AL. A basic Google Maps search reveals that 625 Durden Road in Prattville, AL is in Autauga County, AL rather than Perry County, AL.

While certainly possible that Plaintiff Whalen has moved since this action was removed in November 2021, it is unclear whether the above-noted inconsistencies are merely clerical errors, or if they are representative of a larger concern: *i.e.*, that provision of reasonable notice was made to the wrong person. Accordingly, Traywick is **ORDERED** resolve these concerns for the Court.

As to the Court's prior concerns regarding Justin M. Taylor, (*see* Doc. 22, PageID.113), the undersigned is satisfied with Traywick's representation that Taylor has left Shunnarah Trial Attorneys and seeks to be withdrawn from this case. (*See* Doc. 23, PageID.116). Accordingly, the Clerk is **DIRECTED** to **TERMINATE** attorney Justin M. Taylor's representation of Plaintiff Laura K. Whalen in this matter.

**DONE** and **ORDERED** this the 26th day of October 2022.

/s/ Katherine P. Nelson  
**KATHERINE P. NELSON**  
**UNITED STATES MAGISTRATE JUDGE**