

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**BROCK WEAST**

**PLAINTIFF**

**VS.**

**3:09CV00196-JMM**

**FAMILY DOLLAR DISTRIBUTION CENTER**

**DEFENDANT**

**ORDER**

Pending is the motion of Defendants Delrick Rozier and David Barnum to dismiss. (Docket # 67). Plaintiff has failed to respond.

Plaintiff's original *pro se* Complaint, filed November 10, 2009, set forth allegations of sexual harassment and retaliation against Family Dollar pursuant to Title VII, 42 U.S.C. §§2000e, *et. seq.* On February 1, 2010, Plaintiff filed an Amended Complaint adding individual defendants as well as a sexual harassment claim under the Arkansas Civil Rights Act, Ark. Code Ann. §§16-123-102, *et. seq.* Defendants Rozier and Barnum moved for dismissal contending that service of process was insufficient. The Court issued an Order on May 14, 2010, finding that the summons issued was deficient as these Defendants were not properly identified, and that Plaintiff's attempt to serve these Defendants through Family Dollar was insufficient. However, the Court denied Defendants' motion to dismiss because the Plaintiff had additional time in which to correct these deficiencies. Plaintiff failed to do so.

Rule 4 of the Federal Rules of Civil Procedure requires that a summons or a copy of a summons directed to the individual defendant be served along with the complaint in accordance with Rule 4(e). The plaintiff has the ultimate burden of establishing the validity of service of process. *Northrup King Co.v. Compania Productora Semillas Algodeneras Selectas, S.A.*, 51 F. 3d 1383, 1387 (8<sup>th</sup> Cir. 1995). The procedural requirement of service of summons must be

satisfied for a court to have jurisdiction over a defendant. *Omni Capital Intern., Ltd. v. Rudolf Wolff & Co., Ltd.*, 484 U.S. 97,104 (1987).

As to Defendants Rozier and Barnum, Plaintiff has failed to name the proper parties and direct a summons addressed to these Defendants be properly served. Accordingly, Defendants' motion to dismiss is GRANTED. Plaintiff's complaint against Defendants Rozier and Barnum is hereby dismissed without prejudice.

IT IS SO ORDERED this 6<sup>th</sup> day of July, 2010.

  
James M. Moody  
United States District Judge