

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

In re:	:	MDL Docket No. 4:03CV1507-WRW
	:	4:07CV00251
PREMPRO PRODUCTS LIABILITY LITIGATION	:	
	:	
EDITH SPANGLER	:	PLAINTIFF
	:	
v.	:	
	:	
WYETH, et al.	:	DEFENDANTS

ORDER

Pending is Defendant Watson Laboratories Inc.’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 4(m) (Doc. No. 22). Plaintiff has responded (Doc. No. 23).

On December 27, 2006, Plaintiff re-filed her case in the District of Minnesota.¹ On December 28, 2006, Plaintiff “served Waston’s lead counsel through his legal receptionist, Judith Mankin. At the time of service, Mankin stated she was authorized to accepted service on behalf of Watson.”² In a January 2, 2007 letter, Watson’s counsel, Mr. K.C. Green, informed Plaintiff’s counsel that he was not authorized to accept service of process for Watson -- Mr. Green was authorized only “to consider and execute waivers of service . . . in the HRT MDL³ Plaintiff’s counsel never saw the letter because his staff misplaced it.⁴

¹Doc. Nos. 22, 23

²Doc. No. 23.

³Doc. Nos. 22, 23.

⁴Doc. No. 22.

Plaintiff's counsel did not become aware of the dispute regarding service of the summons and complaint until October, 2008.⁵ Watson concedes that on October 23, 2008, Plaintiff served her complaint on Watson.⁶ Twenty-two months after sending the letter to Plaintiff regarding insufficient service (and following the expirations of the statute of limitations), Watson filed a Motion to Dismiss under Rule 4(m).

The circumstances surrounding service in this case do not warrant dismissal of Plaintiff's claims against Watson. Accordingly, Defendant Watson Laboratories Inc.'s Motion to Dismiss Pursuant to Fed. R. Civ. P. 4(m) (Doc. No. 22) is DENIED. Since it appears that Watson concedes that it has now been properly served, it is not necessary for me to direct proper service.

IT IS SO ORDERED this 25th day of November, 2008.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

⁵Doc. No. 23.

⁶Doc. No. 22.