

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

UNITED STATES OF AMERICA

PLAINTIFF

v.

CASE NO. 4:09cv00353 BSM

LORI A. MOSBY, et al.

DEFENDANTS

MELVIN LACEY

CROSS CLAIMANT

v.

LORI A. MOSBY, et al..

CROSS DEFENDANTS

ORDER

Separate defendant, Pulaski County Treasurer (“Pulaski County”), requests to be dismissed as a party. [Doc. No. 53]. Cross-defendant, Lori A. Mosby (“Mosby”), moves to dismiss the cross-claim filed by Melvin Lacey (“Lacey”). [Doc. No. 59]. Lacey has responded. [Doc. No. 66]. Mosby also moves for leave to file an answer and counter cross-complaint. [Doc. No. 60].

Pulaski County’s motion to dismiss [Doc. No. 53] is denied as moot because Pulaski County was dismissed on January 6, 2010 by stipulation [Doc. No 64].

Mosby’s motion to dismiss the cross-claim [Doc. No. 59] is denied because, although she requests dismissal due to a lack of service, it appears that she was properly served. Counsel for Lacey has provided a sworn affidavit stating that he sent copies of the answer and cross-claim to Mosby at the address listed in the return of service and that it was not returned. This is sufficient service of the cross-claim.

Mosby's motion for leave to file an answer to Lacey's cross-complaint and a counter cross-complaint [Doc. No. 60] is denied without prejudice. Mosby was appointed counsel on March 9, 2010, after the filing of this motion, and counsel should determine what course of action is necessary to protect Mosby's rights.

IT IS SO ORDERED this 9th day of September, 2010.



UNITED STATES DISTRICT JUDGE