

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

DETRICK D. CROSTON
ADC #131172

PLAINTIFF

v.

No. 5:13-cv-217-DPM

RODERICK COOKSEY JR.

DEFENDANT

ORDER

1. When it entered the default, the Court noted that the *Lamb* case is an outlier. There, it was clear that the person who signed the green card was the corporation's registered agent for service. *CMS Jonesboro Rehabilitation, Inc. v. Lamb*, 306 Ark. 216, 218-19, 812 S.W.2d 472, 473-74 (1991). Here, the who-signed issue is hotly disputed. And that dispute is enough to remove this case from *Lamb's* reach. Actual residence is murky too. In the circumstances, the failure to restrict delivery to Cooksey Jr. made service ineffective. *E.g., Wilburn v. Keenan Companies, Inc.*, 298 Ark. 461, 463, 768 S.W.2d 531, 532 (1989). The Court therefore grants Cooksey's motion, *No. 75*, for good cause. FED. R. CIV. P. 55(c). The Court vacates the Clerk's default, *No. 68*, and vacates the related judgment for Croston against Cooksey on liability, *No. 67 at 3*.

2. Croston was *pro se* when the bad service happened; and the mistake wasn't his fault. For good cause, the Court therefore reopens and extends the service window to 15 March 2016. Croston's appointed lawyer should handle service this time. He should file proof of service as soon as it occurs.

3. The Court previously set this case for a jury trial on damages on 11 July 2016. If there's good service this time around, then both liability and damages will be tried on that date. This case will need an expedited schedule – we'll all have to sprint, but this older case needs a final resolution.

4. Discovery must be completed by 13 May 2016. The time for responding to any written discovery is shortened to twenty-one calendar days.

5. Dispositive motions will be due 31 May 2016. The response time on any such motion is reduced to ten calendar days. Any reply is due five calendar days after any response. Main briefs are limited to fifteen pages; any reply brief is limited to five pages. Please follow the procedures in the Amended Final Scheduling Order – which will issue – about summary judgment.

6. The Court withdraws the reference.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

29 February 2016