

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

LEE ANDREW DAVIS

PLAINTIFF

v.

No. 5:16-cv-262-DPM

WALTER JOHNSON; DAVID NIXON;  
JOHN DOES, 1-20; and JEFFERSON  
HOSPITAL ASSOCIATION, INC.,  
d/b/a/ Jefferson Regional Medical Center

DEFENDANTS

ORDER

1. Davis's amended complaint moots the first motion to dismiss, *No 7*, which is denied without prejudice.

2. The unopposed motion for an extension of time, *No 23*, is granted. Davis's response to the live motion to dismiss, *No 19*, is due by 17 November 2016.

3. Davis's embedded motion to serve Walter Johnson by warning order, *No 12-1*, is denied without prejudice. The law disfavors that service method. Chief Judge Miller extended Davis's service deadline to 16 December 2016. *No 18*. Davis should redouble his efforts to find and serve Johnson between now and then.

4. The Court attaches a recent fax from Davis's lawyer requesting service by warning order. No more faxes, please. Any request for Court action or relief should be filed.

5. The Court can't keep the proposed trial date. The Initial Scheduling Order, *No 10*, is vacated. An Amended Initial Scheduling Order will issue.

6. The Court directs the Clerk to correct the name of lead defendant "Jefferson Hospital Organization, Inc." on the docket. The party is "Jefferson Hospital Association, Inc." *No 19*.

So Ordered.

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

3 November 2016

**SUTTER & GILLHAM, P.L.L.C.**

**ATTORNEYS AT LAW**

MAILING ADDRESS: P.O. Box 2012, BENTON, AR 72018

PHYSICAL ADDRESS: 310 WEST CONWAY STREET, BENTON, AR 72015

TELEPHONE 501-315-1910 FACSIMILE 501-315-1916

LUTHER ONEAL SUTTER, P.A.

TONA MARIA DEMERS

LUCIEN RAMSEUR GILLHAM, P.A.

November 1, 2016

The Honorable D. P. Marshall Jr.  
Chief U.S. District Court Judge  
United States District Court  
Eastern District of Arkansas  
500 West Capitol Avenue, Room B149  
Little Rock, AR 72201

**FAX: 501-604-5417**

**RE: Lee Andrew Davls v. Jefferson Regional Medical Center, Walter Johnson,  
David Nixon, and John Does 1-20**

Dear Judge Marshall:

Regarding the above, the firm has previously communicated (enclosed) with Judge Miller regarding the need for an order authorizing a Warning Order for defendant Walter Johnson. Judge Miller did not respond prior to his recusal.

Would you please review the enclosed communication with Judge Miller as well as the Notice of Filing of the Affidavit for Warning Order. If upon consideration, the pleadings and precedent meet with your approval, would you please rule regarding the same? Thank you for your consideration.

Sincerely,

*/s/ Lucien Ramseur Gillham*

Lucien Ramseur Gillham

:krw

Enclosure(s)

cc: Byron Freeland  
Graham Caughman Talley  
Mitchell Williams  
425 West Capitol Avenue, Suite 1800  
Little Rock, AR 72201-3525

**VIA FACSIMILE: 501-688-8807**

10/18/2016 TUE 15:10

FAX 5013151916

Sutter & Gillham, PLLC

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\*\*\* FAX TX REPORT \*\*\*  
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RESULT	OK

**SUTTER & GILLHAM, P.L.L.C.**

ATTORNEYS AT LAW

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 PHYSICAL ADDRESS: 310 WEST CONWAY STREET, BENTON, AR 72015  
 TELEPHONE 501-315-1910 FACSIMILE 501-315-1916

LUTHER ONEAL SUTTER, P.A.

TONA MARIA DEMERS

LUCIEN RAMBEUR GILLHAM, P.A.

October 18, 2016

The Honorable Brian S. Miller  
 Chief U.S. District Court Judge  
 United States District Court  
 Eastern District of Arkansas  
 500 West Capitol Avenue, Room D258  
 Little Rock, AR 72201

FAX: 501-804-5407

RE: Lee Andrew Davis v. Jefferson Regional Medical Center, Walter Johnson, David Nixon, and John Does 1-20

Dear Judge Miller:

We have been unable to serve Defendant Johnson and have moved to extend time to serve, but will need to serve him by warning order because his whereabouts have not been discoverable. Attached is a proposed Order granting us permission to serve by warning order.

Sincerely,

/s/ Lucien Rambeur Gillham

Lucien Rambeur Gillham

:krw

Enclosure(s)

**SUTTER & GILLHAM, P.L.L.C.**

**ATTORNEYS AT LAW**

**MAILING ADDRESS: P.O. Box 2012, BENTON, AR 72018**

**PHYSICAL ADDRESS: 310 WEST CONWAY STREET, BENTON, AR 72015**

**TELEPHONE 501-315-1910 FACSIMILE 501-315-1916**

LUTHER ONEAL SUTTER, P.A.

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October 18, 2016

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Sincerely,

*/s/ Lucien Ramsaur Gillham*

Lucien Ramsaur Gillham

:krw

Enclosure(s)

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

LEE ANDREW DAVIS

PLAINTIFF

VS.

CASE NO: 5:16-CV-00262

JEFFERSON REGIONAL MEDICAL CENTER  
PREFERRED PROVIDER ORGANIZATION, WALTER  
JOHNSON, DAVID NIXON, and JOHN DOES 1-20

DEFENDANTS

**WARNING ORDER**

The Defendants, specifically Walter Johnson, are notified that Plaintiff Lee Andrew Davis, whose attorney's address is listed below, has filed a complaint against them in the United States District Court for the Eastern District of Arkansas. A copy of the complaint and summons will be delivered to you or your attorney upon written request. Defendant Walter Johnson, you are notified that you must appear and defend by filing your answer to the complaint within thirty (30) days of the date of the first publication of this warning order; and in the event of your failure to do so, judgment by default may be entered against you for the relief demanded in the complaint as circumscribed by the laws of this state

WITNESS my hand and seal as Clerk of the United States District Court for the Eastern District of Arkansas, this \_\_\_\_\_ day of October, 2016.

\_\_\_\_\_  
Clerk

(SEAL)

SUTTER & GILLHAM, P.L.L.C.  
Attorneys at Law  
P.O. Box 2012  
Benton, AR 72018  
501-315-1910 Office  
501-315-1916 Facsimile  
Attorney for the Plaintiff

/s/ Luther Oneal Sutter  
Luther Oneal Sutter, ARBN 95031  
[luthersutter.law@gmail.com](mailto:luthersutter.law@gmail.com)

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

LEE ANDREW DAVIS

PLAINTIFF

VS.

CASE NO: 5:16-CV-0262-BSM-PSH

JEFFERSON REGIONAL MEDICAL  
CENTER, WALTER JOHNSON, DAVID  
NIXON, and JOHN DOES 1-20

DEFENDANTS

**NOTICE OF FILING**

COMES THE PLAINTIFF, by and through Counsel and herby gives notice of filing the following:

- 1. **Affidavit for Warning Order: Walter Johnson.**

Respectfully Submitted,

SUTTER & GILLHAM, P.L.L.C.  
Attorneys at Law  
P.O. Box 2012  
Benton, AR 72018  
501-315-1910 Office  
501-315-1916 Facsimile  
Attorney for the Plaintiff

By: /s/ Luther Oneal Sutter  
Luther Oneal Sutter, ARBN 95031  
Email: [luthersutter@yahoo.com](mailto:luthersutter@yahoo.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been served on 29<sup>th</sup> day of September 2016, via ECF, upon counsel for the Defendant:

**Byron L. Freeland**  
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.  
425 West Capitol Avenue  
Suite 1800  
Little Rock, AR 72201  
501-688-8810  
Email: [bfreeland@mwlaw.com](mailto:bfreeland@mwlaw.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Graham Caughman Talley**  
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.

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425 West Capitol Avenue  
Suite 1800  
Little Rock, AR 72201  
501-688-8853  
Email: [gtalley@mwlaw.com](mailto:gtalley@mwlaw.com)  
**ATTORNEY TO BE NOTICED**

By: /s/ Luther Oneal Sutter  
Luther Oneal Sutter, ARBN 95031

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

LEE ANDREW DAVIS

PLAINTIFF

VS.

CASE NO: 5:16-CV-0262-BSM-PSH


JEFFERSON REGIONAL MEDICAL  
CENTER, WALTER JOHNSON, DAVID  
NIXON, and JOHN DOES 1-20

DEFENDANTS

**AFFIDAVIT FOR WARNING ORDER**

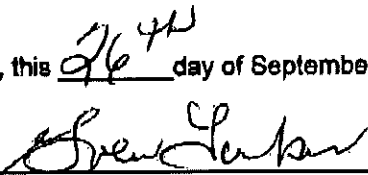
The Plaintiff, by and through Counsel, states that diligent inquiry has been made to locate defendant Walter Johnson but efforts have been unsuccessful. Plaintiff has attempted service by independent process server to the last known employment address who advised that defendant Walter Johnson is no longer employed there, and Plaintiff has been unable to determine defendant Walter Johnson's last known or current home addresses via discovery efforts in Jefferson, Pulaski, Grant, Lonoke, and Cleveland Counties or by known associations with professional organizations. Upon information and belief, defendant Walter Johnson still resides in the State of Arkansas. Plaintiff is unable to locate defendant Walter Johnson, in order to serve summons and complaint upon Defendant, and Defendant Walter Johnson's whereabouts remain unknown. Plaintiff requests issuance of a warning order.

**GWEN TUCKER  
NOTARY PUBLIC  
PULASKI COUNTY, ARKANSAS  
COMM. EXP. 1-8-2017  
COMMISSION NO. 12358506**

  
Luther Oneal Sutter ARBN 95031  
SUTTER & GILLHAM, P.L.L.C.  
Attorneys at Law  
P.O. Box 2012  
Benton, AR 72018  
501-315-1910 Office  
501-315-1916 Facsimile  
Attorney for the Plaintiff

Subscribed and sworn to before me, a Notary Public, this 26<sup>th</sup> day of September, 2016.

11/8/17  
Notary Public

  
My Commission Expires