

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JO ANN JOHNSON,

Plaintiff,

v.

Case No: 6:17-cv-64-Orl-41TBS

UNITED STATES OF AMERICA,

Defendant.

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**ORDER**

Plaintiff's Motion for Entry of Clerk's Default (Doc. 12) is pending before the Court. Plaintiff asserts that she is entitled to have a default entered against Defendant the United States of America, pursuant to Federal Rule of Civil Procedure 55(a) because the government failed to respond to her complaint within the time allowed. The federal rules provide that service on the government be made in the following manner:

(1) **United States.** To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought - or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk - or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States Attorney's office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a non-party agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

FED. R. CIV. P. 4(i).

Under this rule, and because the lawsuit was filed in the United States District Court for the Middle District of Florida, Plaintiff was required to serve the U.S. Attorney for this district. A review of the record shows that Plaintiff neither requested that a summons be issued for the U.S. Attorney, or that a summons was served on this individual or any of his assistants (Doc. 3; Doc. 5). The fact that Plaintiff served the “United States of America” at the U.S. Attorney’s address is inconsequential and does not cure the problem with Plaintiff’s attempt to effect service on the Defendant.

Therefore, because Plaintiff has failed to file proof of service to the United States Attorney for the Middle District of Florida, her service is deemed defective and her motion for entry of clerk’s default is **DENIED**.

Ordinarily, the Court would give Plaintiff 30 days to correct her error and properly effect service on the government but here, the government has appeared and filed a motion to dismiss (Doc. 14). Plaintiff’s response to that motion is due by April 6, 2017.

**DONE** and **ORDERED** in Orlando, Florida on March 24, 2017.

  
THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to:

*Pro se* Plaintiff  
Counsel of Record