

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

DUBLIN DIVISION

MARGIE MCRAE, )  
)  
Plaintiff, )  
)  
v. ) CV 318-025  
)  
ALICE RENEE WOOTEN LESTER, )  
Individually and as Heir of and as Personal )  
Representative of the Estate of Jerome Wooten; )  
GERALDINE WOOTEN CRAY; NINA )  
WOOTEN BRANTLEY; GLENDA )  
WOOTEN; ALLEN CURTIS WOOTEN; )  
BERNARD WOOTEN; and MARCUS )  
WOOTEN, Individually and as Heirs at Law of )  
Jerome Wooten,<sup>1</sup> )  
)  
Defendants. )

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**ORDER**

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Plaintiff has paid the \$400.00 filing fee in the above-captioned case. Because she is proceeding *pro se*, the Court will provide her with basic instructions regarding the development and progression of this case.

Initially, Plaintiff is responsible for serving Defendants. In order to properly request that Defendants waive personal service, Plaintiff must:

- (1) obtain from the Clerk of Court an appropriate number of copies of
  - (a) the notice of lawsuit and request to waive service of summons form, and
  - (b) the waiver of service of summons form;

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<sup>1</sup>The Court **DIRECTS** the Clerk to update the docket in accordance with the caption on this Order.

- (2) complete both forms; and
- (3) mail the completed notice form, along with a copy of the file-stamped complaint and two waiver forms, to each Defendant by first class mail, with a prepaid means for returning the waiver form, and request that each Defendant waive formal service of the summons.

Fed. R. Civ. P. 4(d).

Individual defendants have a duty to avoid unnecessary costs of serving the summons, and any defendant who fails to comply with the request for waiver must bear the costs of personal service unless good cause can be shown for the failure to return the waiver. Fed. R. Civ. P. 4(d)(2). A defendant whose return of the waiver is timely does not have to answer the complaint until sixty days after the date Plaintiff mails the request for waiver. Fed. R. Civ. P. 4(d)(3). However, should a defendant choose not to waive formal service of the summons, Plaintiff is still responsible for properly effecting service of the summons and complaint. Fed. R. Civ. P. 4(c)(1).

Plaintiff is **HEREBY NOTIFIED** that she has ninety days from the date she filed this lawsuit to serve Defendants, and failure to do so may result in their dismissal from this lawsuit or dismissal of this case. Fed. R. Civ. P. 4(m).

**IT IS ORDERED THAT** Plaintiff shall serve upon Defendants, or upon their attorneys if appearances have been entered by counsel, a copy of every further pleading or other document submitted to the Court. Plaintiff shall include with the papers to be filed a certificate stating the date a true and correct copy of any document was mailed to Defendants or their counsel. Fed. R. Civ. P. 5; Loc. R. 5.1. Every pleading shall contain a caption setting forth the name of the court, the title of the action, and the file number. Fed. R. Civ. P.

10(a). Any paper received by a District Judge or Magistrate Judge that has not been properly filed with the Clerk of Court or that fails to include a caption or certificate of service will be returned.

It is Plaintiff's duty to cooperate fully in any discovery that may be initiated by Defendants. Upon being given at least five days notice of the scheduled deposition date, Plaintiff shall appear and permit her deposition to be taken and shall answer, under oath and solemn affirmation, any question that seeks information relevant to the subject matter of the pending action. Failing to answer questions at the deposition or giving evasive or incomplete responses to questions will not be tolerated and may subject Plaintiff to severe sanctions, including dismissal of this case. Defendants shall ensure that Plaintiff's deposition and any other depositions in the case are taken within the 140-day discovery period allowed by this Court's Local Rules.<sup>2</sup>

While this action is pending, Plaintiff shall immediately inform this Court and opposing counsel of any change of address. Failure to do so will result in dismissal of this case.

Plaintiff must pursue this case and failure to do so may result in dismissal for want of prosecution. Fed. R. Civ. P. 41; Loc. R. 41.1. If Plaintiff wishes to obtain facts and information about the case from Defendants, Plaintiff must initiate discovery. See generally Fed. R. Civ. P. 26 through 37 (containing the rules governing discovery and providing for the basic methods of discovery). Plaintiff should begin discovery promptly and complete it

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<sup>2</sup> The Local Rules and commonly used Forms may be found on the Court's website at [www.gasd.uscourts.gov/](http://www.gasd.uscourts.gov/).

within the time limits set forth in Local Rule 26.1(d).

Interrogatories are a practical method of discovery for *pro se* litigants. See Fed. R. Civ. P. 33. Interrogatories shall not contain more than twenty-five questions. Id. Plaintiff must have the Court's permission to propound more than one set of interrogatories to a party. Discovery materials should not be filed routinely with the Clerk of Court. Exceptions include when the Court directs filing; when a party needs such materials in connection with a motion or response, and then only to the extent necessary; and when needed for use at trial. If Plaintiff wishes to file a motion to compel pursuant to Fed. R. Civ. P. 37, she should first contact the attorney for Defendants and try to work out the problem. If Plaintiff proceeds with the motion to compel, she should file therewith a statement certifying that she has contacted opposing counsel in a good faith effort to resolve any dispute about discovery. Loc. R. 26.5.

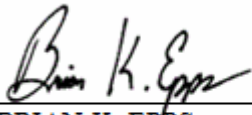
Plaintiff must maintain a set of records for the case. If papers are lost and new copies are required, these may be obtained from the Clerk of the Court at the standard cost of fifty cents per page.

Under this Court's Local Rules, a party opposing a motion to dismiss shall file and serve her response to the motion within fourteen days of its service. "Failure to respond within the applicable time period shall indicate that there is no opposition to a motion." Loc. R. 7.5. Therefore, if Plaintiff fails to respond to a motion to dismiss, the Court will assume that there is no opposition to the motion and will grant the dismissal.

A response to a motion for summary judgment must be filed within twenty-one days

after service of the motion. Loc. R. 7.5, 56.1. A failure to respond shall indicate that there is no opposition to the motion. Loc. R. 7.5. Furthermore, each material fact set forth in a defendant's statement of material facts will be deemed admitted unless specifically controverted by a statement filed by Plaintiff. Loc. R. 56.1. Should a defendant file a motion for summary judgment, Plaintiff is advised that she will have the burden of establishing the existence of a genuine issue as to any material fact in this case. That burden cannot be carried by reliance on the conclusory allegations contained within the complaint. Should a factual assertion in a defendant's motion for summary judgment be supported by affidavits or other materials in the record as provided in Fed. R. Civ. P. 56(c), Plaintiff must respond in kind with counter-affidavits or other such materials, if she desires to contest a defendant's factual assertion. Should Plaintiff fail to properly address a defendant's factual assertions and show that there is a genuine issue for trial, the factual assertions made in the defendant's motion which are properly supported will be accepted as undisputed and, if the defendant is entitled to judgment as a matter of law, summary judgment will be entered against Plaintiff pursuant to Fed. R. Civ. P. 56.

SO ORDERED this 4th day of April, 2018, at Augusta, Georgia.

  
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BRIAN K. EPS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA