

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

FRANK D. MONSEGUE, SR..

Plaintiff,

v.

TRICIA GRIFFITH, et al.,

Defendants.

CIVIL ACTION NO.: 4:22-cv-81

ORDER

After a careful de novo review of the entire record, the Court concurs with the Magistrate Judge's Report and Recommendation, (doc. 23), to which plaintiff has filed an objection, (doc. 24). The Magistrate Judge recommended that Monsegue's Motion for Default Judgment, (doc. 13), be denied because "there is no indication that any of the defendants who have not responded [to his Complaint] have been served or waived service." (Doc. 23, p. 3.) Monsegue's Objection states the allegedly defaulted defendants, Greg A. Cohen, Jovel Yanalta, and Alexis DeNuccio, "had knowledge of this Civil Action claim thru: (1) [t]he summons issued by the clerk of court, (2) [t]he [c]ourt [w]ebsite[,] (3) Plaintiff [e]-mails[,] (4) Plaintiff USPS mail (Letter to a Cease and Desist)[,] (5) Defendant Tricia Griffith[,] (6) Certificate of Service filed by [Defendant Griffith's counsel] Attorney Ryan E. Harbin" (Doc. 24 at 1.) None of those methods of "notice" is sufficient to effect service, pursuant to Federal Rule of Civil Procedure 4. *See* Fed. R. Civ. P. 4(e). Accordingly, Defendant's Objection is **OVERRULED**, (doc. 24), the Magistrate Judge's Report and Recommendation is **ADOPTED**, (doc. 23), and Monsegue's Motion for Default Judgment is **DENIED**, (doc. 13).

The Magistrate Judge also stayed all deadlines in this case, *sua sponte*, pending resolution of the questions concerning service upon several defendants. (Doc. 23, pp. 6-7.) Monsegue objects to the Magistrate Judge's acknowledgement that he did not file a formal opposition to defendant Griffith's Motion to Stay, asserting that he stated his opposition in the Rule 26(f) Report. (See doc. 24, p. 1.) However, the Magistrate Judge expressly noted Monsegue's opposition in the parties' Rule 26(f) report. (Doc. 23, p. 5 (explaining that stating opposition in the report "does not excuse [Monsegue's] obligation to respond to the motion and [his opposition] does not assert any valid grounds to oppose the stay.") Because the stay is non-dispositive, the Court reviews the ruling to determine whether it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); see also Jackson v. Deen, 2013 WL 3991793, at *2 (S.D. Ga. Aug. 2, 2013). Because the Magistrate Judge's stay, pending determination of whether any defendant other than Griffith has been served, was not clearly erroneous or contrary to law, Monsegue's Objection is **OVERRULED**. (Doc. 24.) All deadlines in this case remain **STAYED** pending further Order from the Court.

SO ORDERED, this 17th day of November, 2022.



R. STAN BAKER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA