

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

PATTON BRADLEY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 11-cv-0247-MJR-PMF
	)	
MOORMAN FARMS, INC. ,	)	
and ROBERT METCALF,	)	
	)	
Defendants.	)	

ORDER OF DISMISSAL

REAGAN, District Judge:

Represented by counsel, Patton Bradley filed suit in this Court almost eight months ago, naming two Defendants (Robert Metcalf and Moorman Farms, Inc.) and seeking damages for injuries sustained in a March 2010 vehicular collision in Marion, Illinois. Subject matter jurisdiction was invoked under the federal diversity statute, 28 U.S.C. 1332, but incompletely pled. The Court directed Plaintiff's counsel to file an amended complaint properly alleging all components of diversity jurisdiction, which was done on April 8, 2011. Defendant Moorman Farms answered on April 26, 2011, trial was set, and a discovery schedule entered. Defendant Metcalf, however, was not served. Months passed.

On September 16, 2011, the Court issued a Notice of Impending Dismissal, advising Plaintiff's counsel that Defendant Metcalf would be dismissed (for want of prosecution by Plaintiff) unless action was taken within 21 days -- either accomplishing service on Metcalf or, if Metcalf had been served by failed to respond to the complaint, filing a motion for clerk's entry of default against him (see Doc. 35). On



October 4, 2011, Plaintiff's counsel sought a 60-day extension of time in which to serve Defendant Metcalf.

The undersigned Judge partially granted that motion (see Doc. 38), giving Plaintiff's counsel an additional 45 days to meet the deadline set in the Notice of Impending Dismissal. The Order plainly cautioned: "Robert Metcalf will be dismissed as a named Defendant unless – on or before November 21, 2011 – Plaintiff accomplishes proper service on Metcalf (and files a return of service or other document from which the Court can verify that Metcalf has been served)."

The November 21<sup>st</sup> deadline expired without any filing by Plaintiff's counsel. Accordingly, the Court hereby **DISMISSES Robert Metcalf** as a Defendant herein, pursuant to Federal Rule of Civil Procedure 41(b). Dismissal shall be without prejudice.

IT IS SO ORDERED.

DATED November 23, 2011.

s/ Michael J. Reagan  
Michael J. Reagan  
United States District Judge