

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**BRIAN WATERMAN,** )  
 )  
**Plaintiff,** )  
 )  
**v.** )  
 )  
**BOARD OF COMMISSIONERS OF** )  
**COLUMBUS, KANSAS, et al.,** )  
 )  
**Defendants.** )  
 )

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**Case No. 18-3135-CM-KGG**

**MEMORANDUM AND ORDER**

Plaintiff Brian Waterman, a prisoner in the Sedgwick County Jail, brings this civil rights action pro se against a number of defendants associated with Cherokee County Jail. The case is before the court on several motions, but the court only addresses one here: plaintiff’s Motion for Default Judgment (Doc. 108).

Plaintiff claims that defendants Jonathan Manzer, Manzer Health Clinic, and APRN Kristin Wagner failed to answer summons. But instead of filing an answer, defendants Manzer and Manzer Health Clinic timely filed motions to dismiss (Docs. 93–96.) Under the Fed. R. Civ. P. 12, defendants have the option of whether to file an answer or a pre-answer motion. Default judgment is not appropriate against defendant Manzer and Manzer Health Clinic.

As for defendant APRN Kristin Wagner, it does not appear that a waiver of service or a return of service has been filed. Because it does not appear that this defendant has been served with process, default judgment is also not appropriate against her.

**IT IS THEREFORE ORDERED** that plaintiff's Motion for Default Judgment (Doc. 108) is denied.

Dated this 13th day of May, 2019, at Kansas City, Kansas.

**s/ Carlos Murguia**  
**CARLOS MURGUIA**  
**United States District Judge**