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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

**BOBBY BENSON, SR., ET UX**

**CIVIL ACTION NO. 07-0672**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**GREG MCKINNEY, ET AL.**

**MAG. JUDGE KAREN L. HAYES**

**RULING**

This case was originally filed on April 17, 2007, and has been pending before this Court for two and one-half years. After several continuances and a ruling in which the Court granted partial summary judgment to Defendants and dismissed one of the Plaintiffs, trial was scheduled for September 14, 2009.

However, on August 11, 2009, counsel for the remaining Plaintiff, Emma Benson, filed a motion to continue the trial, indicating that he and his client had developed a material disagreement as to the prosecution of the case. The same day, the Court granted the continuance over Defendants' objection and subsequently allowed counsel to withdraw from the representation of Plaintiff. *See* [Doc. Nos. 46 & 50].

In its August 11, 2009 Order [Doc. No. 46], the Court stated that "Plaintiff[] shall have until September 18, 2009, to either (1) enroll new counsel or (2) file a written notice with the Clerk of Court indicating that they intend to proceed pro se."

On August 18, 2009, counsel for Plaintiff formally filed a Motion to Withdraw [Doc. No. 49], in which he notified the Court that he had provided Plaintiff with a copy of the August 11, 2009 Order and that, for purposes of future notification from the Court, Plaintiff's address is 610 Third Street, Delhi, Louisiana 71232.

On August 19, 2009, Magistrate Judge Karen L. Hayes granted counsel's Motion to Withdraw [Doc. No. 50].

On September 22, 2009, this Court issued a Notice of Intent to Dismiss based on Plaintiff's failure to comply with the Court's August 11, 2009 Order, requiring them to enroll new counsel or to file a written notice of their intent to proceed pro se. The Court indicated that, if Plaintiff failed to respond to its September 22, 2009 Order, by Wednesday, October 7, 2009, at 5:00 P.M., that "this case will be dismissed for failure to prosecute and failure to comply with the Court's orders." [Doc. No. 51].

The Court did not receive a response to either its August 11, 2009 Order or its September 22, 2009 Notice of Intent to Dismiss by October 7, 2009. However, on October 8, 2009, the Court reviewed the record and determined that Plaintiff's address was not added to the notification list, and that she was not provided a copy of the Court's September 22, 2009 Notice of Intent to Dismiss. Therefore, the Court ordered the Clerk of Court to provide a copy of the Court's August 11, 2009 Order; September 22, 2009 Notice of Intent to Dismiss; and October 8, 2009 Memorandum Order to Plaintiff at the address provided above. [Doc. No. 52]. The Court then ordered Plaintiff to respond to the Notice of Intent to Dismiss no later than Monday, October 26, 2009, at 5:00 P.M. The Court warned that if Plaintiff failed to "respond by that date and time, the Court will dismiss [her] case for failure to prosecute and failure to comply with the orders of Court." [Doc. No. 52].

As of today's date, Plaintiff has not responded to the Court's Notice of Intent to dismiss. Accordingly, the Court will issue a separate Judgment of Dismissal dismissing this case for

Plaintiff's failure to prosecute and to comply with the orders of Court. *See* Fed. R. Civ. P. 41(b);  
LR 41.3W. The action may be reinstated within 30 calendar days for good cause shown. *Id.*

MONROE, LOUISIANA, this 5th day of November, 2009.

A handwritten signature in black ink, appearing to read "Robert G. James", written over a horizontal line.

ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE