

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-0782
(410) 962-2698 FAX

November 5, 2015

MEMO TO COUNSEL RE: Angela M. Miller v. Kramon & Graham
Civil No. JFM-15-1081

Dear Counsel:

I have reviewed the memoranda submitted in connection with defendant's motion to dismiss or for summary judgment.

I have decided that I should administratively close this case, subject to being reopened in the event that plaintiff files a new action or being dismissed if she does not. Plaintiff did not effect service within 120 days of the filing of the complaint although instructed by the court to do so and her subsequent attempt to serve defendant was ineffective because, as acknowledged by plaintiff, the service was made simply to K&G, not by restricted delivery or to K&G's officers or managing agent.

If a new action is filed, it may be time-barred. Therefore, I am reluctant to grant the motion since it might preclude plaintiff from having the case resolved on the merits. Thus, if a new action is filed, I will deem it to be served on the date that the original complaint was filed. If defendant does not raise the limitations defense, I will then reopen this case and decide the motion to dismiss.

I recognize that this is a somewhat unusual procedure. However, I am reluctant to strip plaintiff of any rights that she might have, and it is her decision (not mine) as to whether to pursue this litigation, recognizing the risks with which she is confronted.

If plaintiff chooses to file a new action, she should note that it is related to this action.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,


J. Frederick Motz
United States District Judge

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DISTRICT OF MARYLAND
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