

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSEPH MIZZONI,)	3:15-cv-00499-MMD-WGC
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	March 6, 2017
)	
STATE OF NEVADA, et al.,)	
)	
Defendants.)	
)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: KATIE LYNN OGDEN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Before the court is Plaintiff's "Motion to Respond to Defendant's Answer to Plaintiff's Amended Complaint and Response to Court Clerk Charging Plaintiff \$92.00 for Motion File Stamped" (ECF No. 38) which was lodged in two cases in which the Plaintiff is proceeding, i.e., the instant matter and also in *Mizzoni v. State of Nevada*, 3:15-cv-00313-MMD-VPC. The court will discuss Plaintiff's motion insofar as the subjects, as best as the court can ascertain, only pertain to issues in 3:15-cv-00499-MMD-WGC. Plaintiff is cautioned any filing in a case should pertain solely to the subject of that case, and filing the same document in multiple cases is inappropriate.

Defendant's Answer

Plaintiff appears to object that Defendant's answer (ECF No. 29) to Plaintiff's Amended Complaint (ECF No. 7) only pertained to Defendant Brannon. Plaintiff argues, as best as the court can decipher, an answer should be filed on behalf of Defendant Smith against whom Plaintiff's complaint was allowed to proceed in the court's Screening Order of September 2, 2016 (ECF No. 10 at 7).

After the Office of Attorney General filed a Notice of Acceptance of Service as to Defendant Shannon (but not Smith), (ECF No. 19), the Plaintiff sought clarification as to whether the Attorney General would be accepting service as to Defendant Smith. The court ordered, after clarifying Defendant Smith was a party, the Office of the Attorney General to advise whether it would be accepting service on behalf of Defendant Smith, and if not, to file Smith's last known address under seal. (ECF No. 24.)

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On February 9, 2017, Defendant's counsel filed a notice that Defendant Smith's last known address was filed under seal. (ECF No. 28.) The court interpreted Defendant's notice as a reflection the Office of the Attorney General was unable to accept service on behalf of Defendant Smith. The court therefore directed the Clerk's office to issue a summons for Defendant Smith and provide a copy of the amended complaint and the court's order to the U.S. Marshal for service. The Clerk was directed to send Plaintiff a USM-285 form. Plaintiff was provided until Friday, February 24, 2017 to complete and return the form to the U.S. Marshal. (ECF No. 33.) The court has been advised the U.S. Marshal has received completed form 285 from Plaintiff and that the complaint is now out for attempted service as to Defendant Smith.

At the present time, the U.S. Marshal has not filed a return as to whether service was effected with regard to Mr. Smith. Unless and until Defendant Smith is served, he is under no obligation to file an appearance in this matter.

The other subjects of Plaintiff's motion (ECF No. 38) appear to pertain to *Mizzoni v. State of Nevada*, 3:15-cv-00313-MMD-VPC, and this court will not address these issues.

Plaintiff's motion (ECF No. 38) is **DENIED** with respect to the subject attendant to this matter.

IT IS SO ORDERED.

DEBRA K. KEMPI, CLERK

By: _____/s/
Deputy Clerk