

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARRIN L. MCGREGOR,

Plaintiff,

v.

HORNELL GARDENS and JERRI RITTER,

Defendants.

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**DECISION AND ORDER**

6:21-CV-06161 EAW

*Pro se* plaintiff Darrin L. McGregor (“Plaintiff”) brings this action against defendants Jerri Ritter (“Ritter”) and Hornell Gardens (collectively “Defendants”), asserting discrimination on the basis of sex. (Dkt. 1). The Court previously granted Plaintiff permission to proceed *in forma pauperis* and ordered that service be effectuated by the United States Marshals Service (the “USMS”). (Dkt. 5). The USMS attempted to serve Defendants in October of 2022 but was unsuccessful. (Dkt. 6).

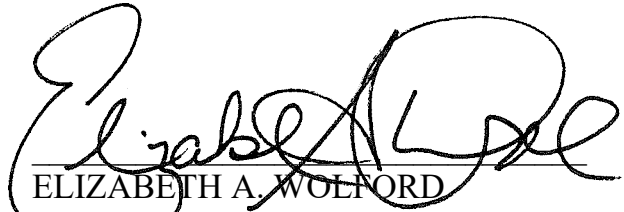
On April 5, 2023, Plaintiff filed two motions. (Dkt. 7; Dkt. 8). The first seeks an extension of time for service because “during the time prior to the US Marshalls attempting service Jerri Ritter lost employment with hornell gardens and Hurlbut Care d/b/a Hornell Gardens ended up selling hornell gardens and [Plaintiff] just now got the addresses for both defendants.” (Dkt. 7 at 1). The second seeks appointment of counsel. (Dkt. 8).

Plaintiff’s motion for appointment of counsel (Dkt. 8) is denied without prejudice to renewal. Before appointing *pro bono* counsel to represent an indigent civil litigant, the

Court must determine, as a threshold matter, that the indigent litigant's position "seems likely to be of substance." *Hodge v. Police Officers*, 802 F.2d 58, 61-62 (2d Cir. 1986). The Court is unable to make that determination at this stage of the proceedings.

Plaintiff's motion for an extension of time for service (Dkt. 7) is granted. Federal Rule of Civil Procedure 4(m) permits an extension of time for service if the plaintiff shows good cause. Here, service was attempted and was unsuccessful because Defendants had changed their addresses. Plaintiff has now obtained the new addresses. Under these circumstances, the Court will extend the time for service to December 5, 2023. The Clerk of Court is directed to issue summonses reflecting the updated addresses provided by Plaintiff and to cause the United States Marshals Service to serve copies of the summons, complaint, and this Order on Defendants without Plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor.

SO ORDERED.

  
ELIZABETH A. WOLFORD  
Chief Judge  
United States District Court

Dated: October 5, 2023  
Rochester, New York