

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:15-cv-00606-MOC-DSC

**LORRAINE LEWIS,** )  
 )  
 Plaintiff, )  
 )  
 Vs. ) **ORDER**  
 )  
 )  
 **ARCHIE L. SMITH III** )  
 **SMITH, DEBNAM, NARRON, DRAKE,** )  
 **SAINTISING & MYERS** )  
 **KELLY S. KING** )  
 **BRANCH BANKING & TRUST COMPANY** )  
 **JEFF D. ROGERS,** )  
 )  
 Defendants. )

**THIS MATTER** is before the court on plaintiff’s pro se “Writ of Error Coram Nobis.” In such pleading, plaintiff challenges the authority of Judge Cayer to enter an order extending the time for defendants to file their answers or other responsive pleadings. For cause, plaintiff states that she has not consented to have any matter handled by a magistrate judge and that the moving defendants failed to send copies of their motions to her. As equitable remedies are not sought when a legal remedy is available, the court has deemed defendant’s request to be an Objection made in accordance with Rule 72 to the non-dispositive Orders of Judge Cayer.

To the extent defendant objects to the authority of a magistrate judge to dispose of a non-dispositive pretrial motion, her objection is without legal basis and is overruled. Under 28 U.S.C. § 626(b) a magistrate judge, when so designated, has the authority to dispose of non-dispositive motions such as motions for enlargement of time. Judge Cayer has been so designated by the undersigned to exercise such authority.

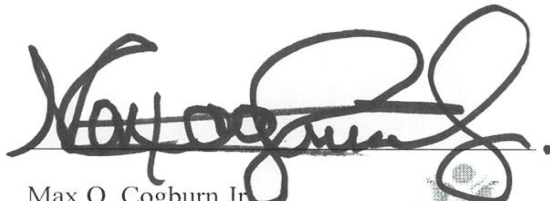
To the extent defendant objects to the Orders based on non-receipt of copies of the motions from defendants, each motion contains a certificate of service indicating that plaintiff was sent a copy of the pleading via United States Mail. See Motions (#5 and #8). Plaintiff's *conclusion* that defendants did not send her copies is unsupported; rather, all that plaintiff can proffer is that she did not *receive* such copies. Thus, the issue is whether non-receipt of the motions forms any basis for overturning the Orders of Judge Cayer. This court has carefully considered the motions and the relief afforded and finds that the Orders of Judge Cayer in no way prejudice plaintiff as they simply extend the time allowed for defendants to either Answer or otherwise respond to the Complaint, which is routinely granted in nearly every civil action. Such objection is overruled.

Having considered plaintiff's pro se motion and reviewed the pleadings, the court enters the following Order.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that plaintiff's pro se Motion "Writ of Error Coram Nobis" (#10), deemed to be an Objection, is **OVERRULED** and the court affirms the Orders of Judge Cayer.

Signed: January 4, 2016



Max O. Cogburn Jr.  
United States District Judge