

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOUGLAS C. STAFFORD,

Plaintiff,

v.

GENEXEL-SEIN, INC.
d.b.a. KOREA TECHNOLOGY
INDUSTRY CO., LTD,

Defendant.

ORDER

09-cv-621-bbc

Plaintiff Douglas C. Stafford filed this civil action on October 9, 2009, against defendant GenExel-Sein, a South Korean corporation. In an October 23, 2009 order, I told plaintiff that if he failed to submit proof of service of his complaint on defendant or explain his inability to do so by January 22, 2010, I would direct him to show cause why his case should not be dismissed for lack of prosecution. Also, I enclosed a copy of the court's "Procedure for Serving a Complaint on a Foreign Corporation, Partnership or Unincorporated Association in a Federal Lawsuit" to help him accomplish service. Now plaintiff has responded to this order, stating that he mailed waiver of service forms to defendant but has not gotten a reply. Also, he has submitted an amended complaint adding

Korea Technology Industry America, a Utah company that is presumably a subsidiary of GenExel-Sein, as a defendant. However, the allegations in the amended complaint are identical to those in the original complaint; there are no allegations against the new defendant.

It is unclear whether plaintiff believes he has served defendant, but from the information he has given the court, it is clear that he has not. Defendant GenExel-Sein's failure to return the waiver form does not mean that plaintiff has accomplished service. As outlined in the memorandum attached to the court's previous order, plaintiff must now move on to serve the defendants in accordance with Fed. R. Civ. P. 4(h).

Making things more confusing is plaintiff's addition of Korea Technology Industry America as a defendant without adding any allegations against this new defendant in the amended complaint. Plaintiff's filings raise at least two possibilities: (1) he intends to sue Korea Technology Industry America; or (2) he has added this new defendant solely as a way to serve GenExel-Sein (Rule 4(h)(1)(B) allows for service by delivering a copy of the summons and complaint to an agent of defendant). If he added the new defendant merely for service purposes, he do so unnecessarily.

Before I can instruct plaintiff further on how to serve the amended complaint in this action, he will have to tell the court why he has added Korea Technology Industry America to this case and how he intends to serve both defendants. I will give him until January 25,

2010 to do so.

ORDER

IT IS ORDERED that plaintiff Douglas C. Stafford has until January 25, 2010 to respond to this order, explaining why he has added Korea Technology Industry America and how he intends to serve defendants.

Entered this 14th day of January, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge