

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

STEVEN J. RUSCH and
LORIE A. RUSCH,

Plaintiffs,

v.

GARY McCARTAN,

Defendant.

ORDER

12-cv-521-wmc

This is a civil action for injunctive and monetary relief in which plaintiffs, Steven Rusch and Lorie Rusch, who are proceeding pro se, allege legal malpractice against the defendant. Plaintiffs have paid the \$350 fee for filing this case.

The next step is for plaintiffs to serve their complaint on the defendant. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve the defendant. However, this case was originally filed in the United States District Court for the Western District of Kentucky on December 27, 2011 and was transferred to this court on July 24, 2012. Shortly after, I denied plaintiff's request for leave to proceed *in forma pauperis* in this case and, subsequently, the court received plaintiffs' payment of the \$350 filing fee on October 15, 2012. The time for serving the complaint has passed through no fault of the plaintiffs. Accordingly, on the court's own motion, plaintiffs may have an enlargement of time to serve the defendant. Plaintiffs may have an additional 60 days, from the date of this order, to provide service to defendant Gary McCartan.

To help plaintiffs understand the procedure for serving a complaint, I am enclosing with this order a copy of the "Procedure for Serving a Complaint on Individuals in a Federal Lawsuit." In addition, I am enclosing to plaintiffs an extra copy of their complaint and a summons that

has been signed and sealed by the clerk of court to provide service to the defendant in accordance with the procedure set out in Option 2 of the memorandum. This court requires that a plaintiff act diligently in moving his case to resolution. If plaintiffs acts promptly, they should be able to serve their complaint on the defendant well before the deadline.

ORDER

IT IS ORDERED that

1. Plaintiffs may have an enlargement of time, 60 days from the date of this order, to serve defendant Gary McCartan.

2. Plaintiffs are directed to serve their complaint on the defendant promptly. A summons that has been signed and sealed by the clerk of court, and a copy of the complaint, are enclosed to plaintiffs with this order for their use in serving their complaint. They should file proof of service of their complaint as soon as they have served the defendant. (“Proof of service” is explained in the attachments.) By December 18, 2012, plaintiffs are to file proof of service of their complaint on the defendant or tell the court why they cannot do so. If they do not file the proof of service or explain why they could not serve the defendant, I will order them to explain why this case should not be dismissed for lack of prosecution.

Entered this 19th day of October, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge