

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

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MELVIN D. GILLEN and  
SHELBY I. GILLEN,

Plaintiffs,

v.

JOHN A. CRAVENS,  
MALLERY & ZIMMERMAN, S.C.,  
ASSOCIATED BANK N.A. and  
ASSOCIATED BANK,

Defendants.

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ORDER

13-cv-655-wmc

This is a civil action filed by plaintiffs Melvin Gillen and Shelby Gillen, who are proceeding pro se. Plaintiffs have paid the \$400 fee for filing this case.

The next step is for plaintiffs to serve his complaint on the defendants. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve the defendants. However, that is an outside limit with few exceptions. 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 defendants well before the deadline for doing so established in Rule 4.

To help plaintiffs understand the procedure for serving a complaint, I am enclosing with this order a copy of two documents titled "Procedure for Serving a Complaint on a Corporation, Partnership, and Unincorporated Association in a Federal Lawsuit" and "Procedure for Serving a Complaint on Individuals in a Federal Lawsuit." In addition, I am enclosing to plaintiffs an extra copy of the complaint and the forms they will need to send to the defendants in accordance with the procedures set out in Option 1 of the instructions.

If the defendants refuse to complete and return the waiver service form, plaintiffs will have to follow Option 2 in the procedures for serving the defendants. (Should defendants fail without good cause to waive service of a properly served request for waiver of service of a summons, plaintiff could later recoup the costs of formal service under Fed. R. Civ. P. 4(d)(2)(G)). Plaintiff should be aware that whether they obtains the agreement of the defendants to waive service of a summons or serves defendants personally with a summons and complaint, they must act with diligence to serve their complaint on the defendants. If they cannot submit proof of service of their complaint by December 2, 2013 this action may be dismissed for their failure to prosecute it unless they can show good cause for their failure to accomplish service.

#### ORDER

IT IS ORDERED that plaintiffs serve their complaint on the defendants promptly and file proof of service of their complaint as soon as they have served the defendants. (“Proof of service” is explained in the attachments.) By December 2, 2013, plaintiffs are to file proof of service of their complaint on the defendants 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 defendants, I will order them to explain why this case should not be dismissed for lack of prosecution.

Entered this 20<sup>th</sup> day of September, 2013.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge