

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

ROBERT D. McGRATH,

Plaintiff,

v.

LENARD WELLS and
LAURA MOFFIT,

Defendants.

ORDER

06-C-343-C

Plaintiff has responded to this court's order of October 26, 2006, directing him to show cause why defendant Laura Moffit should not be dismissed from this case for plaintiff's failure to file proof that he served his complaint on Moffit. Now plaintiff has written to say that on August 7, 2006, he mailed defendant Moffit a "Notice of Lawsuit and Request for Waiver of Service of Summons" form and a "Waiver of Service of Summons" as he was required to do. According to the notice form, Moffit was asked to return the signed waiver form within 60 days. Inadvertently, however, plaintiff marked his calendar to follow-up in 90 days. Moffit has not returned a signed waiver. Therefore, plaintiff asks that the court supply him with a summons form so that he can effect personal service of his complaint on

Moffit.

Plaintiff was allowed to proceed on his claim against defendant Moffit on July 26, 2006. According to Fed. R. Civ. P. 4(m), he has 120 days in which to serve Moffit with his complaint. One hundred twenty days from July 26 is November 25, 2006, which falls on a weekend. Therefore, plaintiff has until Monday, November 27, 2006, to obtain personal service of his complaint on Moffit. A summons form is enclosed to plaintiff with a copy of this order. (An extra summons form also is enclosed so that plaintiff can file the “return of service” portion of the form once service is complete.) Plaintiff is reminded that because he is a party to this lawsuit, he cannot deliver the summons and complaint to defendant Moffit personally. Instead, he must arrange for someone over the age of 18 years of age who is not a party to the lawsuit to perform this task. Fed. R. Civ. P. 4(c)(2).

ORDER

IT IS ORDERED that plaintiff may have until November 27, 2006, in which to file proof of service of his complaint on defendant Laura Moffit by returning a copy of the summons form showing the name of the person who completed service, the place where service occurred and the manner of service. If, by November 27, 2006, plaintiff fails to file

proof of service of his complaint on defendant Moffit, she will be dismissed from this action.

Entered this 20th day of November, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge