

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

William M. Schmalfeldt, Sr.,)	C/A No. 4:17-cv-01310-RBH-KDW
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
)	
Patrick G. Grady;)	
William John Joseph Hoge, III;)	
Eric P. Johnson, and)	
Sarah Palmer,)	
)	
Defendants.)	
)	

This is a civil action filed by a *pro se* litigant proceeding *in forma pauperis*. Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge. By Order dated June 2, 2017, Plaintiff was given a specific time frame in which to bring this case into proper form. ECF No. 11. Plaintiff has complied with the court's Order, and this case is now in proper form.

TO THE CLERK OF COURT:

The Clerk of Court is directed to issue the summonses and to forward copies of this Order, the summonses, the First Amended Complaint (ECF No. 8), and the Forms USM-285 to the United States Marshal for service of process. The Clerk of Court shall calculate the 90-day period for service of process under Rule 4(m) from the date on which the summonses are issued. *Robinson v. Clipse*, 602 F.3d 605, 608-09 (4th Cir. 2010) (tolling during initial review). *A copy of this Order must be provided to the United States Marshal.*

TO THE UNITED STATES MARSHAL:

The United States Marshal shall serve the First Amended Complaint on Defendants. The time limit to accomplish service is governed by Rule 4(m) of the Federal Rules of Civil Procedure. The 90-day limit established by Rule 4(m) will not run during the initial review of this case; therefore the 90 days begins on the date on which the summonses are issued.

The United States Marshals Service is advised that it must expend a reasonable investigative effort to locate a defendant once a defendant is properly identified. *See Greene v. Holloway*, No. 99-7380, 2000 WL 296314, at *1 (4th Cir. 2000) (citing with approval *Graham v. Satkoski*, 51 F.3d 710 (7th Cir. 1995)). If the information provided by Plaintiff on the Forms USM-285 is not sufficient for the Marshal to effect service of process, after reasonable

investigative efforts have been made to locate a properly identified Defendant, the Marshal should so note in the "Remarks" section at the bottom of the Form USM-285.

TO DEFENDANTS:

Defendants are directed to file an answer to the First Amended Complaint or otherwise plead. As indicated in the Report and Recommendation filed contemporaneously with this Order, Defendants shall not answer or respond to Count I of the First Amended Complaint because that Count is subject to summary dismissal.

TO PLAINTIFF:

As noted in the court's previous Order, Plaintiff **must** provide, and is responsible for, information sufficient to identify Defendants on the Forms USM-285. The United States Marshal cannot serve an inadequately identified Defendant. **Unserved Defendants may be dismissed as parties to this case if not served within the time limit governed by Rule 4(m) and this Order.**

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, any documents filed subsequent to the initial pleading must be served on parties. Unless otherwise ordered, service of subsequently filed documents on a Defendant represented by an attorney is made on the attorney. Service on attorneys who have made an appearance in this court is effected by the court's Electronic Case Filing system through a computer generated notice of electronic filing. However, prior to Defendants' attorney making an appearance in this court, Plaintiff must serve Defendants with any documents Plaintiff files subsequent to the initial pleading and file a certificate of service that states who was served, what document was served, and how the document was served.

IT IS SO ORDERED.



June 30, 2017
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge