

**In the United States District Court
For the Eastern District of Wisconsin
Milwaukee Division**

WISCONSIN CARRY, INC.)	
And)	
NAZIR AL-MUJAAHID)	
)	
Plaintiffs)	Civil Action File No.
)	
v.)	2:12-cv-352-LA
)	
CITY OF MILWAUKEE,)	
JOSEPH MENDOLLA,)	
JOHN CHISHOLM, in his official)	
Capacity as District Attorney of)	
Milwaukee County, Wisconsin,)	
PATTI KLEIN, in her official)	
Capacity as Clerk of Courts for)	
The criminal division of the Circuit)	
Court of Milwaukee County,)	
Wisconsin,)	
And)	
MARK WALTON,)	
Defendants)	

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION TO THE CLERK TO ENTER A DEFAULT FOR DEFENDANTS
CITY OF MILWAUKEE, JOSEPH MENDOLLA, AND MARK WALTON**

Introduction

On April 13, 2012, Plaintiffs commenced this action against, *inter alia*, the City of Milwaukee and two Milwaukee police officers, Joseph Mendolla and Mark

Walton (collectively, “Milwaukee Defendants”).¹ Each of the Milwaukee Defendants was served with a summons and complaint, and none of the Milwaukee Defendants has responded within the time provided by law. Pursuant to Fed.R.Civ.Proc. 55(a), the Clerk is therefore obligated to enter a default for each Milwaukee Defendant.

Argument and Citations of Authority

Each Milwaukee Defendant was served by a different process server and on a different date, and affidavits of service have been filed for each. The City of Milwaukee was served on April 20, 2012 by a private process server via service on a city clerk authorized to accept service of process on behalf of the City of Milwaukee. Doc. 12. Mark Walton was served personally by a Milwaukee County Sheriff’s deputy on April 30, 2012. Doc. 10. Joseph Mendolla was served personally by a different Milwaukee County Sheriff’s deputy on April 27, 2012. Doc. 11.

A party who is not affiliated with the government of the United States has 21 days after service of process by which to respond to the summons. Fed.R.Civ.Proc. 12(a)(1)(A)(i). It is now more than four months since service was made upon each of the Milwaukee Defendants, and none of them have responded

¹ This Motion only concerns the default of the Milwaukee Defendants. The remaining Defendants, Pattie Klein and John Chisholm, filed timely answers and are not included in this Motion.

or entered an appearance. In addition to receiving formal service, each Milwaukee Defendant has received multiple constructive notices of the existence of this case. Plaintiffs filed a certificate of interested persons, and served each Milwaukee Defendant by mail with a copy of the same, on April 16, 2012. Doc. 2. Plaintiffs filed a consent to proceed before a magistrate, and served each Milwaukee Defendant by mail with a copy of the same, on April 30, 2012.

Because the Milwaukee Defendants were properly and formally served, and because they also received multiple notices of the existence of this case, yet they have not responded in over four months, a default must be entered against them pursuant to Fed.R.Civ.Proc. 55(a).

/s/ John R. Monroe
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CERTIFICATE OF SERVICE

I certify that on September 14, 2012, I filed this document with the ECF system, which automatically will serve a copy via email upon:

Christopher J. Blythe
blythecj@doj.state.wi.us

Roy L. Williams
Rwilliams4@milwcnty.com

I further certify that on September 14, 2012, I served a copy of this document via U.S. Mail upon

Joseph Mendolla
c/o Milwaukee Police Department
749 W. State Street
Milwaukee, WI 53233

City of Milwaukee
c/o Ronald D. Leonhardt, City Clerk
200 E. Wells St., Room 205
Milwaukee, WI 53202

Mark Walton
c/o Milwaukee Police Department
749 W. State Street
Milwaukee, WI 53233

 /s/ John R. Monroe
John R. Monroe