

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PATRICIA KENNEDY,

Plaintiff,

v.

Case No. 6:17-cv-1403-Orl-37GJK

MICHAEL M. BASILA; and MOTOR
CITY PIZZA, INC.,

Defendants.

ORDER

This action is before the Court on consideration of Plaintiff's Response to the Court's Order to Show Cause (Doc. 14 ("**Response**")).

In this Americans With Disability Act ("**ADA**") action against Defendants Michael M. Basila ("**Basila**") and Motor City Pizza, Inc. ("**MCP**"), Plaintiff Patricia Kennedy ("**Kennedy**") filed her Complaint on **July 31, 2017**. (Doc. 1.) **October 28, 2017**, was the deadline for Kennedy to serve both of the Defendants with a Complaint and Summons. Fed. R. Civ. P. 4(m).

Kennedy timely filed proof of service for MCP (Doc. 10), and she also requested entry of a Clerk's Default (Doc. 11). On **November 6, 2017**, the Clerk granted Kennedy's request and entered a default against MCP pursuant to Federal Rule of Civil Procedure 55(a). Thereafter, Kennedy did not move for final default judgment against MCP, and she did not file a proof of service for Basila.

On **December 5, 2017**, the Court directed Kennedy to show cause why the action should not be dismissed for lack of prosecution. (Doc. 13.) In her Response, Plaintiff advises that: she has not yet served Basila; she has been advised that he is deceased; and she has been “unable to determine who owns the property at issue.” (Doc. 14.) Kennedy does not request additional time to resolve these issues and she has not shown good cause why the action should not be dismissed without prejudice. (*See id.*)

Accordingly, it is hereby **ORDERED and ADJUDGED** that Plaintiff’s Complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**. The Clerk is directed to terminate all pending deadlines and **CLOSE** this case.

DONE AND ORDERED in Chambers in Orlando, Florida, on December 18, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record