

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JOAN A. BANNISTER,

Plaintiff,

v.

Case No: 6:23-cv-2192-WWB-LHP

LOURDES I. DIAZ, CHRISTINE  
CHOONG, DIRECTOR OF  
CRIMINAL DIVISION and WENDY  
MELGAR,

Defendants

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**ORDER**

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: MOTION FOR DEFAULT (Doc. No. 5)**

**FILED: March 27, 2024**

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**THEREON it is ORDERED that the motion is DENIED without prejudice.**

Plaintiff has filed a "Motion for Default" which appears to be a fill in the blank form from state court. Doc. No. 5. The information contained in the blanks is in a font so small that it is largely unreadable, but it appears that Plaintiff is claiming

that she hand-delivered a "Petition" or document to "Respondent," and therefore requests the entry of a clerk's default based on the unknown "Respondent's" failure to respond. *Id.* However, Plaintiff has brought her claims against four (4) separate Defendants, and the motion does not provide any further detail. In addition, the motion fails to comply with Local Rule 3.01(a) as it does not include a memorandum of legal authority in support. In particular, Plaintiff's motion does not explain how she has properly effectuated service on one or more of the four (4) Defendants, nor provides any legal authority demonstrating that hand-delivering some unspecified "Petition" or document to some unknown entity at an unspecified location sufficiently establishes service in compliance with the Federal Rules of Civil Procedure or governing state law. *See generally United States v. Donald*, No. 3:09-cv-147-J-32HTS, 2009 WL 1810357, at \*1 (M.D. Fla. June 24, 2009) (before a Clerk's default can be entered against a defendant, the Court must determine that the defendant was properly served).

For these reasons, the motion (Doc. No. 5) is **DENIED WITHOUT PREJUDICE**. The Court reminds Plaintiff that her *pro se* status does not absolve her from her duty to litigate her case, to respond to discovery as appropriate, and to comply with all applicable Court Orders, Local Rules, and Federal Rules of Civil Procedure. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (a *pro se* litigant "is subject to the relevant law and rules of court, including the Federal Rules of Civil

Procedure.”), *cert. denied*, 493 U.S. 863 (1989). Any renewed motion must comply with all applicable federal, state, and Local Rules, and must establish, with citation to relevant legal authority, that service on Defendants was proper.

**DONE** and **ORDERED** in Orlando, Florida on March 28, 2024.

A handwritten signature in blue ink that reads "Leslie Hoffman Price". The signature is written in a cursive style and is positioned above a horizontal line.

LESLIE HOFFMAN PRICE  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record  
Unrepresented Parties