

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

LEAVENWORTH COUNTY, KANSAS )  
BOARD OF COMMISSIONERS, )  
 )  
 *Plaintiff,* )  
 )  
 v ) Case No. 19-2664-EFM  
 )  
 REDIE LEWIS, )  
 )  
 *Defendant.* )  
 \_\_\_\_\_ )

**MEMORANDUM AND ORDER**

Counterclaim / 3<sup>rd</sup> Party Petitioner, Redie Lewis<sup>1</sup> filed a Request for Service and Re-filing (Doc. 38), on December 20, 2019. She complains that when she received Document 27, Reply to Response to Motion to Dismiss for Lack of Jurisdiction, she first received only even numbered pages and had to request a the complete document be sent her; and that when she received that complete document she realized that she had never received the Memorandum in Support of the Motion to Dismiss (which was filed on November 12, 2019 at Doc. 14; the Motion itself being filed the same day as Doc. 13). She therefore requests that the Memorandum and Exhibits be served upon her again, and that Document 27 (the Reply) be re-served on her to show that she did not receive it until December 17, 2019, even though it was filed on December 3, 2019.

A few observations are in order. First, after filing this request, Lewis on December 31, 2019, at Document 43, filed a request for leave to file her response to the Motion to Dismiss

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<sup>1</sup> In her filing at Document 38, Redie Lewis identifies herself as Counterclaim/3<sup>rd</sup> Party Petitioner, but the Court notes that she is a Defendant in this case.

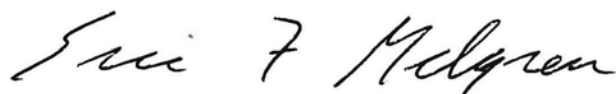
(Doc. 13) and Memorandum in Support (Doc. 14) out of time. That motion was granted on January 2, 2020, so it seems that this “Request” may be moot. However, the Court notes that instead of filing a response to that Motion, she instead filed a sur-reply to Document 27. Sur-replies are not permitted without permission, which she had not received, so her sur-reply was struck.

Second, the Court notes that following the original filing of the Memorandum in Support of the Motion to Dismiss (Doc. 14), the document she complains she did not receive, she one week later filed a document captioned “Restated Federal Question – Whistle Blower and Notice of Intent to Reply to Mays & Medina’s Motion to Dismiss FTCA Claims” on November 19, 2019 at Document 23. The Court notes that Mays and Medina are the parties on whose behalf the Motion to Dismiss and Memorandum in Support thereof were filed. Moreover, and notwithstanding its captioning as a Notice of Intent to Reply, the document made substantive replies to the jurisdictional issue raised in those filings; specifically, it responded to the argument that Lewis did not follow the requirement to first seek administrative remedies. This was the second grounds stated in the Memorandum in Support of the Motion to Dismiss, Document 14, at pages 6 – 7. Thus, it appears that Lewis did in fact timely receive Documents 13 and 14.

IT IS THEREFORE ORDERED that Defendant’s Motion for Order titled Request for Service and Re-Filing, Doc.38, is DENIED.

IT IS SO ORDERED.

Dated this 15th day of January, 2020.



ERIC F. MELGREN  
UNITED STATES DISTRICT JUDGE