

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ATHONY AZZARETTO,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 22-1080-DDC-KGG
)	
LEELIN TAYAG HARRINGTON,)	
)	
Defendant.)	
_____)	

REPORT & RECOMMENDATION OF DISMISSAL

This case was removed to the Northern District of Texas from the 67th Judicial District Court of Tarrant County, Texas on February 15, 2022. (Doc. 1.) Defendant filed a motion to dismiss or transfer on February 18, 2022. (Doc. 4.) An amended Complaint was filed on March 4, 2022. (Doc. 7.) The District Court of the Northern District of Texas granted in part the motion to dismiss and transferred the case to the District of Kansas on March 29, 2022. (Docs. 17, 18.)

On March 30, 2022, the Clerk of the Court of the District of Kansas sent a letter to Plaintiff’s Texas counsel (hereinafter “Texas counsel”) advising them of the local rules and information regarding *pro hac vice* admission to this District. (Doc. 19.) Over the course of the next two months, Texas counsel did not comply with these requirements or make any filings in the case.

Thereafter, on June 2, 2022, staff for the undersigned Magistrate Judge contacted Texas counsel inquiring as to the status of the case. Court staff instructed counsel to **respond by the end of business the next day, June 3, 2022,** or a dismissal would be recommended. **No response was sent until June 6, 2022,** indicating Texas counsel was looking for Kansas counsel and requesting additional time to do so.

That same day, the undersigned entered an Order to Show Cause why this case should not be dismissed for lack of prosecution. (Doc. 20.) Plaintiff was given a deadline of **June 21, 2022.** (*Id.*) **No response to the Show Cause Order was filed.**

On June 24, 2022, Texas counsel emailed staff for the undersigned Magistrate Judge stating that the deadline had been inadvertently mis-calendared and subsequently missed. Texas counsel indicated the search for Kansas attorneys continued and requested additional time. Counsel was instructed the **deadline to respond to the Show Cause Order would be extended to July 5, 2022.** (*See* 6/27/22 CMECF text entry.)

On July 5, 2022, Texas counsel emailed judicial staff stating that he had been unable “to get in touch with any of the attorney’s [sic] [he was] trying to hire” and requested an additional week to respond to the Show Cause Order. Judicial staff gave Texas counsel the name of an attorney in Wichita to contact. Judicial

staff specifically stated that the Court would not encourage this Wichita attorney to take the case and was not indicating the attorney would be willing to do so, but merely that this attorney would be a good resource to help Texas counsel find local counsel. The deadline to respond to the Show Cause Order was again extended, this time until **July 19, 2022**. (Doc. 21, text entry.)

As of the date of this filing, no response to the Show Cause Order has been filed and Texas counsel has not contacted the Court. Despite various communication initiated by Court personnel and numerous extensions, Plaintiff has continually failed to respond to the Court's Order to Show Cause in the time required. As such, the Court **RECOMMENDS** that the District Court **DISMISS without prejudice** Plaintiff's claims in their entirety.

IT IS THEREFORE ORDERED that a copy of the recommendation shall be sent to Plaintiff via certified mail. Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72, and D. Kan. Rule 72.1.4, Plaintiff shall have fourteen (14) days after service of a copy of these proposed findings and recommendations to serve and file with the U.S. District Judge assigned to the case, her written objections to the findings of fact, conclusions of law, or recommendations of the undersigned Magistrate Judge. Plaintiff's failure to file such written, specific objections within the fourteen-day period will bar appellate review of the proposed findings of fact, conclusions of law, and the recommended disposition.

IT IS SO ORDERED.

Dated this 20th day of July, 2022, at Wichita, Kansas.

/s KENNETH G. GALE
HON. KENNETH G. GALE
U.S. MAGISTRATE JUDGE