

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 09–cv–00309-MSK-KMT

SUZANNE SHELL,

Plaintiff,

v.

AMERICAN FAMILY RIGHTS ASSOCIATION,
WILLIAM O. TOWER,
ANN TOWER,
LEONARD HENDERSON,
SUSAN ADAMS JACKSON a/k/a SUSAN WOLVERTON,
CLETUS KIEFER,
FAMILIES AT RISK DEFENSE ALLIANCE,
MARK CYGAN,
ILLINOIS FAMILY ADVOCACY COALITION,
DOROTHY KERNAGHAN-BAEZ,
GEORGIA FAMILY RIGHTS, INC.,
DENNIS HINGER,
NATIONAL ASSOCIATION OF FAMILY ADVOCATES,
AIMEE DUTKIEWICZ,
THOMAS DUTKIEWICZ,
CONNECTICUT DCF WATCH,
WILLIAM WISEMAN,
WISEMAN STUDIOS,
ANN DURAND,
BRENDA SWALLOW,
KATHY TILLEY,
DEE CONTRERAS
RANDALL BLAIR,
LLOYD PHILLIPS,
RINGO KAMENS,
CHERYL BARNES,
CPSWATCH, INC.,
DESERE' CLABO aka HOWARD,

SARAH THOMPSON and
Unknown defendants Doe 1-15,

Defendants.

ORDER

This matter is before the court on Defendant Aimee Dutkiewicz’s “Motion to Stay Ruling [352] for Both Financial and Health Reasons” (Doc. No. 353, filed December 10, 2009). The defendant requests a “stay” of this court’s order granting an award of costs to Plaintiff in the amount of \$172.83 for effecting personal service. (*See* Doc. No. 352.) The court ordered the defendant to pay Plaintiff no later than December 11, 2009, and to file a Notice of Compliance with the Order no later than December 18, 2009. (*Id.*) Defendant states she had been on medical leave from work from November 2, 2009, through December 2, 2009, and that she may have to take another leave based on a “diagnosed medical condition.” Defendant states the extended leave from work has caused a tremendous financial hardship. The court finds Defendant’s request to be reasonable in light of statements made by the defendant and the “Certificate for Return to Work” attached as Exhibit 1 to Defendant’s motion.

To the extent the defendant seeks that this court revisit the order granting costs to Plaintiff based on her “counter-claim” for personal property allegedly broken by the process server and based on the argument that the process server used a fictitious name on the Return of Service, the court declines to do so. The court has already recommended that the defendant’s “Motion to Strike Service of Summons for Improper Service or In the Alternative a Request for

Additional Time to Answer” be denied, finding that Plaintiff made a *prima facie* showing that she properly served Defendant Dutkiewicz. (See Doc. No. 331.) The fact that the process server may have damaged Defendant’s personal property in her attempt to serve Defendant is a matter entirely separate from the claims in this case.

Accordingly, it is

ORDERED that Defendant’s “Motion to Stay Ruling [352] for Both Financial and Health Reasons” (Doc. No. 353) is GRANTED in part. Defendant shall make payments to Plaintiff in the amount of \$20.00 per month beginning January 4, 2010, no later than the first business day of every month, until the cost award of \$172.83 has been paid in full. Defendant shall file a Notice of Compliance with this Order no later than the tenth day of each month following her payment to Plaintiff. Any further relief sought by Defendant in her motion is DENIED.

Dated this 11th day of December, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge