

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

YAKIN JORDAN, MJ MINISTRIES
SPREADING THE GOSPEL, INC., MJ
MINISTRIES, LLC, STEVEN SLEDGE,
AARON JORDAN, NAOMI COOK,
LUTHER MCKINSTY, FRANK
JULIANO, JONATHAN FOREMAN,
JESSE SPENCER, WARREN TAYLOR,
SERVING HANDS COMMUNITY
DEVELOPMENT CORPORATION, and
JOHN/JANE DOES 1-5,

Defendants.

CIVIL ACTION NO.
1:22-cv-1419-WMR

ORDER

Before the Court is Plaintiff Craig Cunningham's Motion for Extension of Time to Complete Discovery. [Doc. 45]. Plaintiff's Motion makes several requests. First, Plaintiff requests that the Court order the Clerk to issue Plaintiff ten subpoenas so that he may obtain evidence from third-party phone service providers. [*Id.* at 1–6]. Plaintiff explains that pursuant to Federal Rule of Civil Procedure 45's method for obtaining documents from non-parties, he cannot obtain necessary phone records from the third-party providers without subpoenas. [*Id.* at 3]. So that Plaintiff has the

opportunity to obtain the records that he claims he needs, the Court **DIRECTS** the Clerk to make available ten subpoenas for Plaintiff to serve on third parties.

Plaintiff's Motion also asks the Court to stay its consideration of Defendants' Motion for Summary Judgment [Doc. 42]¹ and requests a telephone status conference to address his concerns. [Doc. 45 at 4]. Because the Court has already granted Defendants' Motion for Summary Judgment, Plaintiff's request to stay consideration of Defendants' Motion is **DENIED** as moot. Moreover, because the Court does not find that a status conference is necessary, Plaintiff's request for a status conference is **DENIED**. However, if after serving his subpoenas Plaintiff develops evidence indicating that Defendants made the phone calls that he alleges, Plaintiff may, within 90 days of the date of this Order, file a motion for reconsideration of the Court's Order granting Defendants' Motion for Summary Judgment.


The Court also finds that the Clerk's entry of default as to Defendant MJ Ministries, LLC was improperly set aside. Plaintiff filed a Motion for Clerk's Entry of Default as to several Defendants in this case, including Defendant MJ Ministries, LLC. [Doc. 7]. The Court later granted two motions to set aside the Clerk's entry of default as to some Defendants. *See* [Docs. 22; 25; 34; 35]. However, Defendant MJ

¹ All Defendants in this case except MJ Ministries, LLC joined the Motion for Summary Judgment. *See* [Doc. 42; Doc. 43].

Ministries, LLC did not join in either of those two motions, and the Court did not direct the Clerk to set aside the entry of default as to Defendant MJ Ministries, LLC. Thus, Defendant MJ Ministries, LLC remains in this case, and the Court **DIRECTS** the Clerk to reinstate the Clerk's entry of default as to Defendant MJ Ministries, LLC.²

As discussed above, Plaintiff may file a motion for reconsideration of the Court's Order granting Defendants' Motion for Summary Judgment within 90 days of the date of this Order if he develops evidence indicating that Defendants made the phone calls that he alleges. However, if Plaintiff does not file a motion for reconsideration, he and Defendant MJ Ministries, LLC are **ORDERED** to file a proposed pretrial order within 120 days of the date of this Order.

IT IS SO ORDERED, this 30th day of November, 2023.



WILLIAM M. RAY, II
UNITED STATES DISTRICT JUDGE

² Plaintiff filed a Return of Service that purports to show that he executed service on Defendant MJ Ministries, LLC by serving its agent, Frank Juliano. [Doc. 4]. By reinstating the Clerk's entry of default, the Court is making no conclusion as to whether MJ Ministries, LLC exists, that it was properly served, or that Frank Juliano is its registered agent. The Court notes, however, that the New York State Department of State's records do not list Frank Juliano as the LLC's registered agent for purposes of receiving service. NY. STATE DEPT. OF STATE, Public Inquiry, <https://apps.dos.ny.gov/publicInquiry/#search>.