

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THERESA ELAINE)
MIDDLEBROOKS,)
)
Plaintiff,)
)
v.)
)
CENTURYLINK)
COMMUNICATIONS, and QWEST)
COMMUNICATIONS,)
)
Defendants.)

8:15CV1

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. Plaintiff Theresa Elaine Middlebrooks filed her Complaint (Filing No. 1) in this matter on January 5, 2015. Liberally construed, Middlebrooks brought this action under the Age Discrimination in Employment Act (“ADEA”), [29 U.S.C. §§ 621-634](#), the Americans with Disabilities Act (“ADA”), [42 U.S.C. §§ 12101-12213](#), and the Family and Medical Leave Act (“FMLA”), [29 U.S.C. §§ 2601- 2654](#).

On April 7, 2015, the court conducted a pre-service screening of the Complaint. (*See* Filing No. 7.) The court ordered Middlebrooks to file an amended complaint that asserted plausible claims for relief under the ADEA, ADA, and FMLA. In addition, the court ordered Middlebrooks to file a copy of her right-to-sue notice or amend her complaint to allege that she filed suit within 90 days of her receipt of any right-to-sue notice pertaining to her claims.

Middlebrooks filed an Amended Complaint (Filing No. 11) on June 1, 2015. Middlebrooks supplied additional facts in support of her claims (*id.* at CM/ECF pp. 2-5), and also alleged she properly exhausted her administrative remedies prior to filing suit in this court. In light of the foregoing, the court will allow this action to

proceed to service of process. The court cautions Middlebrooks that allowing her claims to proceed to service of process is not a determination of the merits of her claims or potential defenses to them.

IT IS THEREFORE ORDERED that:

1. This matter may proceed to service of process against CenturyLink Communications and Qwest Communications.

2. The clerk of the court is directed to send to Middlebrooks a copy of the Complaint, a copy of this Memorandum and Order, and two summons forms and two USM 285 Forms.

[Federal Rule of Civil Procedure 4\(m\)](#) requires service of the complaint on a defendant within 120 days of filing the complaint. However, Middlebrooks is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

3. If requested to do so in this matter, the United States Marshal will serve all process in this case without prepayment of fees from Middlebrooks. In making such a request, Middlebrooks must complete the USM 285 forms to be submitted to the clerk of the court with the completed summons forms. Without these documents, the United States Marshal will not serve process. Upon receipt of the completed forms, the clerk of the court will sign the summons forms and forward them to the Marshal for service on Defendants, together with a copy of the Complaint.

4. The clerk of the court is directed to set a pro se case management deadline in this case with the following text: December 8, 2015: Check for completion of service of summons.

DATED this 6th day of August, 2015.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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