



Joel Carter v. Hood Ricumstrict

2011 | Cited 0 times | E.D. Michigan | April 8, 2011

DISTRICT JUDGE DENISE PAGE

ORDER GRANTING PLAINTIFF'S MOTION FOR TRIAL BY JURY

(DOCKET NO. 86)

Plaintiff filed the instant one-page Motion For Trial By Jury pursuant to Federal Rule of Civil Procedure 39 on February 9, 2011. (Docket no. 86). No response has been filed to the motion and the time for responding has now expired. All pretrial matters have been referred to the undersigned for action. (Docket no. 91). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(f). This matter is now ready for ruling pursuant to 28 U.S.C. § 636(b)(1)(A).

Federal Rule of Civil Procedure 38(b) provides that "[o]n any issue triable of right by a jury, a party may demand a jury trial by . . . serving the other parties with a written demand - which may be included in a pleading - no later than 14 days after the last pleading directed to the issue is served." Fed.R.Civ.P. 38(b)(1). A party who fails to file a timely demand under Rule 38(b) waives his right to a jury trial. Fed.R.Civ.P. 38(d). Federal Rule of Civil Procedure 39(b) provides that a party who fails to properly serve and file his jury demand within the allotted 14 day period may ask the court to exercise its discretion to grant a late demand. "The court's discretion should be exercised in favor of granting a jury trial in the absence of strong and compelling reasons to the contrary." *Kitchen v. Chippewa Valley Schools*, 825 F.2d 1004, 1013 (6th Cir.1987) (citations and internal quotation marks omitted).

Defendants have not opposed Plaintiff's motion, and no strong and compelling reasons for denying the motion have been identified. Accordingly, the Court will grant Plaintiff's late request for a jury trial.

IT IS THEREFORE ORDERED that Plaintiff's Motion for a Trial by Jury (docket no. 86) is GRANTED.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).



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MONA K. MAJZOUN UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Joel Carter and Counsel of Record on this date.

Dated: April 8, 2011 s/ Lisa C. Bartlett Case Manager

