

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

WESLEY C. SMITH,
Plaintiff,

v.

Civil Action No. 7:07-cv-00117

CHERI SMITH, IGOR BAKHIR et als.,
Defendant(s).

NOTICE

This case is before the Court pursuant to defendants' Joint Motion to Dismiss filed April 11, 2007. The Court will give plaintiff twenty (20) days from the date of this Notice to submit any further counter-affidavits or other relevant evidence contradicting, explaining or avoiding defendants' evidence. Both sides are advised that if documents or affidavits outside the pleadings are submitted by either party, any remaining motion(s) to dismiss under Rule 12(b)(6) of the Federal Rules of Federal Civil Procedure may be considered as motion(s) for summary judgment under Rule 56 of the Federal Rules of Federal Civil Procedure.

If plaintiff does not respond to defendants' pleadings, the court will assume that plaintiff has lost interest in the case, and/or that plaintiff agrees with what the defendants state in their responsive pleadings. If plaintiff wishes to continue with the case, it is necessary that plaintiff respond in an appropriate fashion. Plaintiff may wish to respond with counter-affidavits or other additional evidence as outlined above. However, if plaintiff does not file some response within the twenty (20) day period, the court will dismiss the case for failure to prosecute.

Issued and mailed this 11th day of April, 2007.

JOHN F. CORCORAN, Clerk

By: *s/ L. Bright*

Deputy Clerk