

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ESSEX INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 2:14-CV-2138-VEH
)	
HPH PROPERTIES LLC, BONNIE)	
ADAMS, JOHN ADAMS, WENDY)	
COOK, and WILLIAM COOK,)	
)	
Defendants.)	

MEMORANDUM OPINION

On April 1, 2015, the court granted partial judgment by default against J&J Masonry LLC (“J&J Masonry”) on plaintiff Essex Insurance Company’s (“Essex”) complaint. (Doc. 25). In granting judgment by default on the complaint, the court entered a declaratory judgment that Essex, which insured J&J Masonry under several policies, has no duty to defend and indemnify J&J Masonry in two underlying state court suits: one brought by Bonnie Adams and John Adams, (“the Adamses”) and the other brought by Wendy Cook and William Cook (“the Cooks”). The Adamses and the Cooks are also defendants in this action.¹

¹ The Adamses and the Cooks filed an answer to the complaint on December 5, 2014. (Doc. 13). However, they have not made any subsequent filings. Notably, they did not respond to the motion for default judgment against J&J Masonry (Doc. 19) or to the court’s show cause order on April 1, 2015 regarding summary judgment against them. (Doc. 26).

On April 1, 2015, the court ordered the Adamses and the Cooks to show cause by April 15, 2015 why summary judgment should not be granted against them. (Doc. 26). That deadline has passed without any response. Since the court has given “notice and a reasonable time to respond,” Fed. R. Civ. Pro. 56(f), summary judgment is now appropriate.

The declaratory judgment sought by Essex sought only declaration as to its duties to its insured, J&J Masonry, and not to any of the other defendants. (Doc. 1). There have been no counterclaims or cross-claims raised by other parties in this case. After the court granted the declaratory judgment by default against J&J Masonry, no issues remain to be decided in this case. Therefore, summary judgment will be **GRANTED** against the Cooks and the Adamses by separate order.

There is one other defendant remaining: HPH Properties LLC (“HPH Properties”). HPH Properties has not appeared in this action, and the only attempt to serve HPH Properties was returned unexecuted. (*See* Doc. 12). Therefore, all claims against HPH Properties will be **DISMISSED WITHOUT PREJUDICE**.

DONE and **ORDERED** this 21st day of April, 2015.



VIRGINIA EMERSON HOPKINS
United States District Judge