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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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11 Max M. Hobson,

12 Plaintiff,

13 vs.

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15 Safeway Inc, Steve A. Burd, President,

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17 Defendants.

No. CV 11-00928-PHX-FJM

ORDER

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We have before us plaintiff’s application for entry of default as to defendant Steve A. Burd (doc. 10), plaintiff’s affidavit of default (doc. 11), defendant’s motion to set aside default (doc. 12), plaintiff’s response (doc. 13), and defendant’s reply (doc. 15).

There is no evidence in the record that defendant Steve Burd was served with a summons in compliance with Rule 4, Fed. R. Civ. P. The plaintiff was informed that Safeway personnel were not authorized to accept service on behalf of any individual (doc. 12, ex. A). Therefore, plaintiff’s attempt to serve defendant Steve Burd solely by serving Safeway is ineffective. Defendant Burd is not in default.

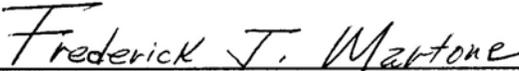
Accordingly,

IT IS ORDERED DENYING plaintiff’s motion for entry of default (doc. 10).

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IT IS ORDERED DENYING defendant's motion to set aside default as moot (doc. 12).

DATED this 15th day of September, 2011.



Frederick J. Martone
United States District Judge