

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

vs.

4:10CV00027-WRW

MARK R. CATHEY, et al.

DEFENDANTS

ORDER

Pending is the United States' Motion for Default Judgment against Mark R. Cathey (Doc. No. 13). Defendant Mark Cathey has not responded, and the time has passed for doing so. Defendants BancorpSouth, Claridge Products and Equipment, Inc., and Pulaski County have responded.¹

On January 15, 2010, the United States filed its Complaint.² On March 18, 2010, the United States filed a Motion for Entry of Clerk's Default Against Mark R. Cathey,³ and on that same day a Clerk's Entry of Default was entered under Rule 55(a) of the Federal Rules of Civil Procedure.⁴

On April 12, 2010, the United States filed its Motion for Default Judgment.⁵ The United States seeks default judgment against Mark Cathey on Counts I and II of its Complaint. Count I of the Complaint requests judgment against Mark Cathey in the amount of \$110,328.30 -- plus statutory additions accruing after November 23, 2009, until paid -- for trust fund recovery penalties for failure to collect, truthfully account for, and pay the withheld income and Federal

¹Doc. Nos. 16, 17, 18, respectively.

²Doc. No. 1.

³Doc. No. 11.

⁴Doc. No. 12.

⁵Doc. No. 13.

Insurance Contribution Act (“FICA”) taxes for employees of Cathey & Associates, P.A.⁶ Count II requests judgment against Mark and Cindy⁷ Cathey in the amount of \$36,525.99 -- plus statutory additions accruing after November 23, 2009, until paid -- for federal income taxes and related statutory additions.⁸

The United States does not request default judgment against Mark Cathey for Count III of the Complaint (foreclosure of federal tax liens), because other parties may have an interest in the real property at issue.⁹

The Defendants that responded do not object to default judgment being entered against Mark Cathey, but object to a ruling in connection with the priority of the parties’ claimed interests in the real property that at issue in the foreclosure.¹⁰

Accordingly, Plaintiff’s Motion is GRANTED. Default judgment in the amount of \$111,948.04 on Count I and \$37,062.26 on Count II is entered against Mark Cathey under Rule 55(b)(2) of the Federal Rules of Civil Procedure. Nothing in this order should be read as establishing the priority of the parties’ interests in the real property at issue in the foreclosure.

IT IS SO ORDERED this 13th day of May, 2010.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

⁶Doc. No. 1.

⁷Cindy Cathey filed for divorce in Pulaski County Circuit Court on April 8, 2008; that court entered a decree of divorce on August 19, 2009. Doc. No. 14, page 4, n.1.

⁸Doc. No. 1.

⁹Doc. No. 14, page 6, n.2.

¹⁰Doc. Nos. 16, 17, 18.