

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MICHAEL DON GREENE

PLAINTIFF

v.

Case No.: 08-2048

KIMBERLY BEAUMONT, et al.

DEFENDANTS

ORDER

Before the Court are Plaintiff's Motions for Default Judgment as to Kimberly Beaumont (docs. 179, 183) and Motion for Issuance of Subpoenas (doc. 211).

On October 28, 2010, the U.S. District Clerk entered a default against Kimberly Michele Beaumont for failing to file a timely response to Plaintiff's Second Amended Complaint (doc. 181). On December 3, 2010, Kimberly Beaumont filed a *pro se* pleading which the Court will construe as a Motion to Set Aside the Entry of Default (doc. 193).

The Court may set aside an entry of default for good cause. Fed.R.Civ.P. 55©. When examining whether good cause exists, the district court should weigh "whether the conduct of the defaulting party was blameworthy or culpable, whether the defaulting party has a meritorious defense, and whether the other party would be prejudiced if the default were excused." *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 784 (8th Cir. 1998).

The Court finds that good cause exists for setting aside the entry of default as to Kimberly Beaumont. Ms. Beaumont has appeared in this action as evidenced by her answers to Plaintiff's

original and first amended complaints. Therefore, the motion (doc. 193) is GRANTED, and the clerk's default (doc. 181) is hereby rescinded and set aside. Plaintiff's Motions for Default Judgment (docs. 179, 183) are DENIED AS MOOT. The U.S. District Clerk is directed to docket Ms. Beaumont's pleading (doc. 193) as an answer to Plaintiff's Second Amended Complaint.

Plaintiff's Motions for Default Judgment (docs. 202, 204-08) as to various other defendants will be considered at trial. The trial of this matter remains set for **Tuesday, February 15, 2011 at 9:00 a.m.** The parties are advised that they need to submit their proposed findings of fact and conclusions of law, as well as their pretrial disclosure sheets no later than Monday, February 7, 2011, in accordance with the scheduling order, if they have not already done so. The proposed findings of fact and conclusions of law should be submitted to rtdinfo@arwd.uscourts.gov or mailed to Judge Dawson's chambers. The pretrial disclosure sheets should be filed with the U.S. District Clerk.

Plaintiff's Motion for Issuance of Subpoenas (doc. 211) is DENIED without prejudice to Plaintiff's right to re-file his motion with the appropriate information. Specifically, for the Court to issue any subpoenas, Plaintiff must provide the specific name and address of the person he wishes subpoenaed for trial.

IT IS SO ORDERED THIS 31st DAY OF January, 2011.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge