

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CLIFFORD D. HAYES, individually
and as Trustee of the CLIFFORD
D. HAYES REVOCABLE LIVING TRUST

PLAINTIFF

v.

Case No. 5:09-CV-05122

FEDERAL DEPOSIT INSURANCE
CORPORATION, Receiver of ANB
Financial NA

DEFENDANT

DEFAULT JUDGMENT

Currently before the Court is Plaintiff's Motion for Default Judgment as to Defendant. (Doc. 9). Plaintiff Clifford D. Hayes had previously filed a Motion for Default Judgment to be entered by the Court Clerk in accordance with Federal Rule of Civil Procedure 55(b)(1). Hayes sought a sum certain of \$84,959.22, as set forth in the affidavit accompanying the motion. Instead of entering a judgment, however, it appears from the record that the Court Clerk merely entered Defendant Federal Deposit Insurance Corporation's ("FDIC") default under Rule 55(a). After the entry of default, and without any judgment having been entered, the instant case languished for a year and a half, eventually being reassigned to the undersigned. Hayes then filed a second Motion for Default Judgment, seeking entry of default judgment by the Court under Federal Rule of Civil Procedure 55(b)(2).

Upon review of Hayes' Motion, and the record as a whole, the Court finds that FDIC has failed to appear or otherwise defend this action in the more than two years since it was commenced; Hayes'

claim is for a sum certain; and Hayes has shown by affidavit that FDIC is indebted to Hayes in the principal sum of \$84,959.22. **IT IS THEREFORE ORDERED AND ADJUDGED** that judgment is entered for Plaintiff, Clifford D. Hayes individually and as Trustee of the Clifford D. Hayes Revocable Living Trust, against the Defendant FDIC, Receiver of ANB Financial NA, **the sum of \$84,959.22 plus costs and interest according to law from the date of this judgment until the entire amount is paid.**

IT IS SO ORDERED this 18th day of July 2011.

/s/ Paul K. Holmes, III

PAUL K. HOLMES, III
UNITED STATES DISTRICT JUDGE