

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 10-cv-01411-PAB

In re:

DONALD A. GOOD,

Debtor,

DONALD A. GOOD,

Plaintiff,

v.

FIRST REVENUE ASSURANCE, LLC,

Defendant.

ORDER VACATING JUDGMENT

This matter is before the Court on the parties' Stipulated Motion for Relief from Judgment [Docket No. 11]. The parties move to have the judgment in this case vacated under Fed. R. Civ. P. 60(b)(4) on the grounds that it was void when entered because defendant received deficient notice under Fed. R. Bankr. P. 7004 and Fed. R. Civ. P. 4. Rule 60(b)(4) permits the Court to relieve a party from a final judgment that is void. See *Hukill v. Okla. Native Amer. Domestic Violence Coal.*, 542 F.3d 794, 797 (10th Cir. 2008). "Where Rule 60(b)(4) is properly invoked, 'relief is not a discretionary matter; it is mandatory.'" *Id.* (quoting *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994)). Here, the parties have stipulated that service was improper upon the defendant and

request that the default judgment be set aside. Thus, the parties have properly invoked Rule 60(b)(4).

Accordingly, it is

ORDERED that the Judgment [Docket No. 8] entered on June 30, 2010, shall be vacated.

DATED December 21, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge