

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 12-cv-02111-REB-KLM

MARGUERITE E. BAIN,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE TREASURY - INTERNAL REVENUE  
SERVICE, and  
ALL UNKNOWN PERSONS WHO CLAIM ANY INTEREST IN THE SUBJECT MATTER  
OF THIS ACTION,

Defendants.

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**ORDER ADOPTING RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE**

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**Blackburn, J.**

The matter before me is the recommendation to continue the trial in this matter contained in the **Recommendation of United States Magistrate Judge** [#55],<sup>1</sup> filed June 10, 2013. No objection having been filed, I review the recommendation for plain error only. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005). Finding no such error in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted.

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<sup>1</sup> “[#55]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

As more thoroughly set forth in the recommendation, this case was removed to this court, and I have jurisdiction over this over this matter under to 28 U.S.C. § 2410 (action affecting title to property in which the United States claims a lien). By publication, plaintiff duly served the unknown persons who may have an interest in the subject matter of this action. (**See Summons By Publication** [#35], filed December 3, 2012.) Personal jurisdiction is proper in this district. No other person or entity filed an answer or otherwise responded within the time permitted by law. The clerk of the court entered default against these unknown defendants pursuant to Fed. R. Civ. P. 55(a) on May 17, 2013 [#50]. Plaintiff therefore is entitled to default judgment against these defendants under Fed. R. Civ. P. 55(b).

In failing to respond or otherwise appear, a defendant admits the factual allegations of the complaint other than those relating to damages. **See FED. R. CIV. P.** 8(d); **see also Burlington Northern Railroad Co. v. Huddleston**, 94 F.3d 1413, 1415 (10<sup>th</sup> Cir. 1996); 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, **Federal Practice and Procedure** § 2688 at 58-59 (3<sup>rd</sup> ed. 1998). Plaintiff's complaint alleges that her rights in the subject property are superior to all others. She seeks only a decree quieting title and declaratory relief, and therefore no evidence of damages is required. I thus find and conclude that the motion for default judgment should be granted.

**THEREFORE, IT IS ORDERED** as follows:

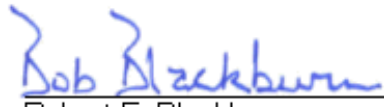
1. That **Recommendation of United States Magistrate Judge** [#55], filed June 10, 2013, is **APPROVED AND ADOPTED** as an order of this court;

2. That **Plaintiff's Motion for Default Judgment** [#52], filed May 21, 2013, is **GRANTED**; and

3. That default judgment **SHALL ENTER** on behalf of plaintiff, Marguerite E. Bain, against defendants, All Unknown Persons Who Claim Any Interest in the Subject Matter of This Action, on plaintiff's claims implicating those defendants in this lawsuit.

Dated July 8, 2013, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge