

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

EDWARD L. GODSHALK,

Plaintiff,

v.

Case No. 8:13-cv-2789-T-33AEP

BANK OF AMERICA NATIONAL
ASSOCIATION and MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendants.

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ORDER

This matter comes before the Court in consideration of Defendant Bank of America National Association's Amended Motion to Vacate and Set Aside Clerk's Default and to Quash Improper and Ineffective Service of Process (Doc. # 6), which was filed on November 5, 2013. The Motion asserts that a clerk's entry of default entered against Bank of America in state court prior to the October 30, 2013, removal of this action "should be set aside because [Bank of America] has never been properly served with sufficient process." (Id. at 1).

Also before the Court are Plaintiff Edward Godshalk's Motion for Final Judgment After Default (Doc. # 3) and Bank of America's first Motion to Vacate and Set Aside Default

(Doc. # 4), both filed in state court before the removal of this action.

Pursuant to Local Rule 3.01(b) and Federal Rule of Civil Procedure 6(d), the deadline for Godshalk to file a response in opposition to Bank of America's November 5, 2013, Amended Motion to Vacate and Set Aside Clerk's Default was, at the latest, November 22, 2013. Godshalk, who is represented by counsel, failed to file a response to the Motion in the time provided by the Rules or at any point since. Accordingly, the Court considers the Motion as an unopposed motion.


Upon due consideration of the Motion and the record before the Court, the Court grants Bank of America's Amended Motion to Vacate and Set Aside Clerk's Default (Doc. # 6) as unopposed. The Court hereby sets aside the default previously entered against Bank of America and correspondingly denies as moot Godshalk's Motion for Final Judgment After Default (Doc. # 3) and Bank of America's first Motion to Vacate and Set Aside Default (Doc. # 4). Furthermore, the Court permits Godshalk until and including January 6, 2014, to properly effect service of process upon Defendant Bank of America and to file an executed return of service with this Court.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Bank of America's Amended Motion to Vacate and Set Aside Clerk's Default (Doc. # 6) is **GRANTED** as unopposed.
- (2) Plaintiff Edward Godshalk's Motion for Final Judgment After Default (Doc. # 3) and Bank of America's first Motion to Vacate and Set Aside Default (Doc. # 4) are **DENIED** as moot.
- (3) Plaintiff has until and including January 6, 2014, to properly effect service of process upon Defendant Bank of America and to file an executed return of service with this Court.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 25th day of November, 2013.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record