

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 09-60498-CIV-ZLOCH

XL SPECIALTY INSURANCE
COMPANY,

Plaintiff,

vs.

TWIN TOWN LEASING COMPANY
d/b/a TWIN AIR d/b/a TWIN AIR
CALYPSO, BAHAMAS FIRST GENERAL
INSURANCE COMPANY, LTD., JOHN
HAMBURGER, and GENEVIEVE
HAMBURGER,

Defendants.

DEFAULT FINAL JUDGMENT
AS TO DEFENDANT
TWIN TOWN LEASING COMPANY
d/b/a TWIN AIR
d/b/a TWIN AIR CALYPSO

THIS MATTER is before the Court upon the Plaintiff's Motion For Entry of Final Judgment By Default (DE 19). The Court has carefully reviewed said Motion and the entire court file and is otherwise fully advised in the premises.

On June 1, 2009, Defendant Twin Town Leasing Company d/b/a Twin Air d/b/a Twin Air Calypso was duly served with a copy of the Summons and Complaint filed herein. See DE 7. This Defendant has failed to file a responsive pleading within the time prescribed by law. The Court previously entered a Default (DE 18) against Defendant Twin Town Leasing Company d/b/a Twin Air d/b/a Twin Air Calypso (hereinafter "Twin Town") on June 29, 2009.

The well-pleaded allegations made in Plaintiff's Complaint (DE 1) are deemed admitted by Defendant by virtue of the Default entered against it. Cotton v. Mass. Mut. Life Ins. Co., 402 F.3d 1267, 1277-78 (11th Cir. 2005) (citations omitted). Thus, the following facts are admitted: XL Speciality issued a commercial general liability

aviation insurance policy, numbered NAF3038182 to Defendant Twin Town Leasing Company d/b/a Twin Air d/b/a Twin Air Calypso for the policy period November 26, 2006, to November 25, 2007. DE 1, ¶ 10. A lawsuit has been filed by John and Genevieve Hamburger in the Circuit Court for the 17th Judicial Circuit in and for Broward County, Florida, Case No. 08-49609, alleging they each suffered bodily injuries and incurred medical and hospital expenses and loss of earnings, and loss of ability to earn, to date and in the future, as a result of a June 17, 2007 motor vehicle accident caused by the negligence of an employee of Twin Town. DE 1, ¶¶ 6-8. As to claims alleged against Twin Town arising from the June 17, 2007, motor vehicle accident that is the subject of Case No. 08-49609 in the Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, Florida, the policy does not provide liability coverage for the following reasons: The alleged bodily injuries of the Hamburgers were not caused by an occurrence that took place in coverage territory, the injuries of the Hamburgers did not arise out of work or operations performed by Twin Town or on its behalf and any coverage is further precluded by Exclusion (g) of the policy, as the underlying case involved bodily injury arising out of the use of an auto operated by or loaned to any insured. DE 1, ¶¶ 6-19.

Therefore, the Court finds that Plaintiff XL Specialty is not liable under commercial general liability aviation insurance policy number NAF3038182 as to claims alleged against Twin Town arising from a June 17, 2007, motor vehicle accident that is the subject of Case No. 08-49609 in the Circuit Court for the Seventeenth Judicial Circuit

in and for Broward County, Florida and the instant Motion will be granted.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. That this Court has personal jurisdiction over the Parties hereto and the subject matter herein;

2. Plaintiff XL Specialty's Motion For Default Final Judgment (DE 19) be and the same is hereby **GRANTED**;

3. Pursuant to Federal Rules of Civil Procedure 55 and 58 Final Judgment be and the same is hereby **ENTERED** in favor of Plaintiff and against Defendant Twin Town Leasing Company d/b/a Twin Air d/b/a Twin Air Calypso upon the Complaint (DE 1) filed herein; and

4. Plaintiff XL Specialty is not liable under commercial general liability aviation insurance policy number NAF3038182 as to claims alleged against Defendant Twin Town Leasing Company d/b/a Twin Air d/b/a Twin Air Calypso arising from a June 17, 2007, motor vehicle accident that is the subject of Case No. 08-49609 in the Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, Florida.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 2nd day of October, 2009



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel of Record