

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

ADMIRAL INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 2:13cv206
)	
KAPPA ALPHA PSI FRATERNITY, INC.,)	
<i>et al.</i> ,)	
)	
Defendants.)	

OPINION AND ORDER

This matter is before the court on a motion for default judgment¹ filed by the plaintiff, Admiral Insurance Company (“Admiral”), on September 12, 2014, against three of the defendants. The defendants, Thomas Beck (“Beck”), Dominique Howard (“Howard”), and Carmelo Gonzalez (“Gonzalez”), have not responded to the motion.

For the following reasons the motion will be granted.

Discussion

Admiral filed this declaratory judgment action on June 12, 2013, seeking a declaration that the insurance policy it issued to Kappa Alpha Psi Fraternity provides no insurance coverage for Defendants Beck, Howard and K.C. Thompson for the claims alleged in an underlying lawsuit filed by Defendant Gonzalez.

Admiral initially sought a waiver of service from all Defendants pursuant to F.R. Civ. P. Rule 4(d). Gonzalez responded to the waiver requested and on June 27, 2013 waived service. Although Gonzalez waived service on June 27, 2013, to date Gonzalez has neither

¹ A motion for default judgment was filed on July 31, 2014 [DE 16]. Later, on September 12, 2014, an identical motion for default judgment [DE 21] was filed. DE 16 will be deemed moot.

appeared nor responded to Admiral's Complaint. On October 7, 2013 Howard was served with Summons and Complaint by Barry A. Savage of LaSalle Process Servers. To date, Howard has neither appeared (either pro se or by counsel) nor responded to Admiral's Complaint. On March 31, 2014 Beck was personally served with Summons and Complaint in this action. To date, Beck has neither appeared (either pro se or by counsel) nor responded to Admiral's Complaint.

Although Gonzalez, Howard and Beck were each properly served in this case, none have appeared, pled or otherwise attempted to respond in this case. The Clerk of this Court entered Default against Gonzalez, Howard and Beck on August 6, 2014.

Admiral now seeks entry of default judgment against Gonzalez, Howard and Beck. Specifically, Admiral seeks declaratory judgment as follows:

- (1) The allegations of the lawsuit filed by Gonzalez on January 11, 2013 in Lake Superior Court, captioned Carmelo Gonzalez v. Calumet College of St. Joseph, Inc., *et al.*, Case No. 45D05-1301-CT-00012 ("Lawsuit"), against Howard and Beck are not covered or potentially covered under Commercial Lines Policy No. CA000014870-02 for policy period April 1, 2011 to April 1, 2012, which Admiral issued to Kappa Alpha Psi Fraternity, Inc. ("Policy");
- (2) Admiral is under no duty or obligation to provide a defense to Howard in the Lawsuit;
- (3) Admiral is under no duty to indemnify Howard for any judgment that may be entered against him and in favor of Gonzalez in the Lawsuit; and
- (4) Admiral is under no duty to compensate Gonzalez for any damages awarded Gonzalez in the Lawsuit from Howard.

- (5) Admiral is under no duty or obligation to provide a defense to Beck in the Lawsuit;
- (6) Admiral is under no duty to indemnify Beck for any judgment that may be entered against him in and in favor of Gonzalez in the Lawsuit; and
- (7) Admiral is under no duty to compensate Gonzalez for any damages awarded Gonzalez in the Lawsuit from Beck.

As Gonzalez, Beck, and Howard have failed to plead or otherwise defend this action, the court will grant the motion for default judgment, pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

Conclusion

On the basis of the foregoing, Admiral's motion for default judgment [DE 21] is hereby GRANTED.

Further, the previous motion for default judgment [DE 16] is hereby DEEMED MOOT.

Entered: October 1, 2014.

s/ William C. Lee
William C. Lee, Judge
United States District Court