

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**DAVID KIRKPATRICK AND ERICA D.
JENKINS, TRUSTEES, OF THE KANSAS
CITY CEMENT MASONS PENSION FUND &
THE KANSAS CITY CEMENT MASONS
PENSION FUND,**

Plaintiffs,

v.

DONALD LEE BURGE III,

Defendant.

Case No. 18-2236-CM

ORDER OF DEFAULT JUDGMENT

This matter comes before the court upon plaintiffs' Motion for Default Judgment (Doc. 4). Plaintiffs filed this action on May 9, 2018, seeking restitution against defendant pursuant to the Employment Retirement Income Security Act of 1974 ("ERISA") for an overpayment of his defined contribution plan benefits. Defendant did not file an answer or other responsive motion. On July 25, 2018, plaintiffs filed an application for clerk's entry of default, which was entered on August 29, 2018. Defendant did not seek to set aside the clerk's entry of default, and plaintiffs moved for default judgment.

Plaintiffs' motion for default judgment seeks \$11,086.93 for overpaid pension benefits, \$5,358.68 in interest as of July 25, 2018, and \$1,598.96 in attorney fees, totaling \$18,044.57. The court finds that defendant is in default and an entry of default judgment is proper pursuant to Federal Rule of Civil Procedure 55.

IT IS THEREFORE ORDERED that plaintiffs' Motion for Default Judgment (Doc. 4) is granted and default judgment is entered against defendant and in favor of plaintiffs in the amount of \$18,044.57.

Dated October 11, 2018, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge