

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PETER MARIO GOICO,

Plaintiff,

v.

Case No. 20-1025-JWB

UNITED STATES GOVERNMENT;
DONALD TRUMP; DONALD TRUMP
as President of the United States; and
WILLIAM BARR, Attorney General of
the United States,

Defendants.

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's motion for default judgment (Doc. 19). For the reasons set forth herein, Plaintiff's motion for default judgment is DENIED.

On April 23, 2020, this court entered an order granting Plaintiff's motion for extension of time to serve Defendants. (Doc. 16). Plaintiff was to serve Defendants on or before May 22. Plaintiff now moves for default judgment on the basis that Defendants have failed to file an answer within 21 days of being served. (Doc. 19.) Plaintiff has not attached proof of service but states that he will provide it if requested. In support of Plaintiff's motion, he cites to Local Rule 6.1 (d). That rule pertains to the time for filing a response to a dispositive motion.

Once properly served, Defendants are entitled to serve an answer within 60 days after the United States Attorney is served. If the United States or its employees are being sued in their official capacity, the answer must be filed within 60 days after service on the United States Attorney. *See* Fed. R. Civ. P. 12(a)(2). If the employees and officers are being sued in their individual capacity, such employees would have until the later of 60 days after service on the

officer or employee or 60 days after service on the United States Attorney. *See* Fed. R. Civ. P. 12(a)(3). A review of the amended complaint shows that Defendants are being sued in their official capacity. Therefore, they have 60 days from the date of service on the United States Attorney to file an answer. Plaintiff has not provided proof of service and his motion can be denied on this basis. Additionally, the court notes that 60 days have not even passed since the court granted the extension of time to serve entered on April 23, 2020.

Conclusion

Plaintiff's motion for default judgment (Doc. 19) is DENIED.

IT IS SO ORDERED this 19th day of June, 2020.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE