

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANALOUISIANA CITIZENS PROPERTY
INSURANCE CORP.

CIVIL ACTION

VERSUS

NO: 16-14476

KELLY WHITAKER, ET AL.

SECTION: "A" (2)

ORDER AND REASONS

The following motions are before the Court: **Motion for Default Judgment (Rec. Doc. 37)** filed by Louisiana Citizens Property Insurance Corp. ("Citizens"); **Motion for Summary Judgment (Rec. Doc. 20)** filed by The State of Louisiana, Division of Administration, Office of Community Development, Disaster Recovery Unit ("OCD-DRU"). The motions, noticed for submission on January 10, 2018, are before the Court on the briefs without oral argument.

This is an interpleader action brought by Louisiana Citizens Property Insurance Corp. This action arises out of insurance payments that Citizens made due to hurricane damage to the property of Kelly Whitaker. Whitaker settled her claim with Citizens in 2011, and all checks except the Coverage A property damage check (\$20,000.00) were negotiated by Whitaker and her attorney. Upon receipt of a Road Home acknowledgement form that assigned \$11,489.36 of Whitaker's insurance proceeds to Road Home via the Louisiana Division of Administration, (Rec. Doc. 37-2), Citizens reissued the check with \$8,510.64 payable to Whitaker and her attorney and \$11,489.36 payable to Road Home. That Road Home check, issued in 2012, was never negotiated.

In 2015, Citizens reissued the \$11,489.36 Road Home check but a dispute arose between Road Home and U.S. Bank, N.A., the mortgagee on Whitaker's property. Citizens then initiated this interpleader action against Whitaker, U.S. Bank, N.A., OCD-DRU, and the United States Department of Housing and Urban Development. On November 30, 2017, Citizens deposited the \$11,489.36 into the registry of the Court. (Rec. Doc. 34).

U.S. Bank, N.A. and the United States Department of Housing and Urban Development have disclaimed any interest to the funds (Rec. Docs. 12 & 18).

Whitaker was served with the complaint but failed to answer. Default as to Whitaker was entered on November 30, 2017. (Rec. Doc. 35). Whitaker has subsequently failed to appear before the magistrate judge (Rec. Doc. 38) and has declined to respond to the pending motions, which were mailed to her. (Rec. Doc. 39). Given the documents of record, however, it appears that Whitaker has no viable legal claim to the registry funds.

OCD-DRU is the only party that has made a claim to the funds deposited into the registry of the Court. The record supports OCD-DRU's claim to the funds.

Accordingly and for the foregoing reasons;

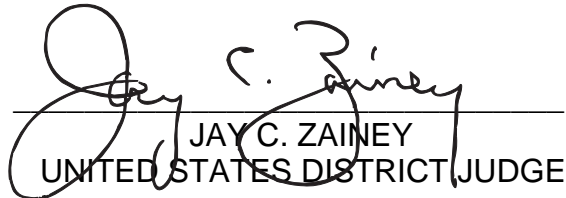
IT IS ORDERED that the **Motion for Default Judgment (Rec. Doc. 37)** filed by Louisiana Citizens Property Insurance Corp. is **GRANTED**;

IT IS FURTHER ORDERED that the **Motion for Summary Judgment (Rec. Doc. 20)** filed by The State of Louisiana, Division of Administration, Office of Community Development, Disaster Recovery Unit is **GRANTED**. OCD-DRU is entitled to the funds that Citizens deposited into the registry of the Court. OCD-DRU is directed

to file an ex parte motion in compliance with the Local Rules of this Court in order to obtain the funds;

IT IS FURTHER ORDERED that after OCD-DRU withdraws the funds from the registry, a judgment shall issue in favor of Louisiana Citizens Property Insurance Corp. and against all defendants, dismissing this action with prejudice. The January 18, 2018 pretrial conference, and February 5, 2018 trial are **CANCELLED** as moot.

January 11, 2018



JAY C. ZAINY
UNITED STATES DISTRICT JUDGE