

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

CHARLES BENOIT, ET AL.

CIVIL ACTION NO. 16-0846

VERSUS

JUDGE ROBERT G. JAMES

THE CITY OF CROWLEY, ET AL.

MAG. JUDGE CAROL B. WHITEHURST

MEMORANDUM ORDER

On June 14, 2016, Plaintiffs Charles Benoit and Suzanne Benoit brought this action against Defendants City of Crowley, 6th Ward Crowley Gravity Drainage District, and Acadia Parish Police Jury. [Doc. No. 1]. Summonses issued on June 15, 2016. [Doc. No. 1].

On July 21, 2016, an affidavit of service [Doc. No. 3] was filed indicating that the Acadia Parish Police Jury was served through Hannah Creder on July 1, 2016. On July 25, 2016, an affidavit of service [Doc. No. 4] was filed indicating that the City of Crowley was served through Greg Jones on July 1, 2016. These Defendants were to file answers by July 22, 2016. No answers were filed.

On August 11, 2016, Plaintiffs moved for entry of default against the City of Crowley and Acadia Parish Police Jury. [Doc. No. 5]. The Clerk entered the defaults on August 12, 2016. [Doc. Nos. 6, 7 & 8].

On August 23, 2016, an affidavit of service [Doc. No. 9] was filed indicating that the 6th Ward Crowley Gravity Drainage District was served by service on Wayne Baronet on July 26, 2016.

On August 26, 2016, all Defendants attempted to file Answers in this matter. The Answer

was filed as to the 6th Ward Crowley Gravity Drainage District, but the Answers as to the other Defendants were marked deficient because of the entries of default.

The same day, on August 26, 2016, all Defendants filed the instant Motion to Set Aside Default [Doc. No. 15]. First, to the extent that Defendant the 6th Ward Crowley Gravity Drainage District moves to set aside default, no default has been entered, and its Answer has been filed.

In contrast, default has been entered as to Defendants the City of Crowley and the Acadia Parish Police Jury. However, counsel explains that he believed that service had not been properly made against these Defendants and that he had an agreement with Plaintiffs' counsel that waiver of service forms would be provided. Regardless, these two Defendants have now filed answers. Accordingly, they move to set aside the defaults entered against them.

Plaintiffs' counsel has indicated that he does not intend to file an opposition to this motion.

Rule 55(c) provides that a district court "may set aside an entry of default for good cause." As the United States Court of Appeals for the Fifth Circuit has recognized, "[w]e have adopted a policy in favor of resolving cases on their merits and against the use of default judgments." *In re Chinese–Manufactured Drywall Prods. Liab. Litig.*, 742 F.3d 576, 594 (5th Cir.2014) (citing *Rogers v. Hartford Life & Accident Ins. Co.*, 167 F.3d 933, 936 (5th Cir.1999)). "This policy, however, is counterbalanced by considerations of social goals, justice and expediency, a weighing process [that] lies largely within the domain of the trial judge's discretion." *Id.* (quoting *Rogers*, 167 F.3d at 936) (internal quotation marks and citations omitted).

In this case, the Court finds good cause to set aside the entries of default entered against the Defendants City of Crowley and the Acadia Parish Police Jury.

IT IS ORDERED that Defendants' Motion to Set Aside Default [Doc. No. 15] is GRANTED

IN PART AND DENIED IN PART. To the extent that Defendant the 6th Ward Crowley Gravity Drainage District moves to set aside default, the motion is DENIED AS MOOT because no default has been entered, and its Answer has been filed. To the extent that Defendants City of Crowley and the Acadia Parish Police Jury have moved to set aside the defaults entered against them, the motion is GRANTED, the defaults entered on August 12, 2016 [Doc. Nos. 6, 7 & 8] are SET ASIDE, and their proposed Answers are filed in the record of this matter.

MONROE, LOUISIANA, this 30th day of August, 2016.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE