

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KOLEAN ENGLAND,

Plaintiff,

v.

JAMES M. O'BRIANT,

Defendant.

Case No. 1:17-cv-185

HON. JANET T. NEFF

ORDER

This matter is before the Court on the Magistrate Judge's May 17, 2018 Report and Recommendation (ECF No. 66), recommending that Plaintiff's Motion for Judgment by Default (ECF No. 59) be granted. Also pending is Plaintiff's "Motion Asking this Court to Put in Writing in the Judgment Ways for Defendant to Pay Plaintiff" (ECF No. 65). For the reasons that follow, the Court approves and adopts the Report and Recommendation, grants Plaintiff's Motion for Judgment by Default, and denies Plaintiff's "Motion Asking this Court to Put in Writing in the Judgment Ways for Defendant to Pay Plaintiff."

On February 27, 2017, Plaintiff, proceeding pro se, initiated this case against Defendant, an attorney whom Plaintiff had retained (Compl., ECF No. 1). In her Complaint, Plaintiff seeks \$70,000.00 "based on defendant's professional negligence" and \$100,000.00 "based on defendant's fraud committed during the attorney-client relationship" (*id.* at PageID.7). While Defendant initially participated in the case, default was eventually entered against him (ECF No. 57), and Plaintiff filed a Motion for Judgment by Default (ECF No. 59). In her motion, Plaintiff again requested damages in the total amount of \$170,000.00 (*id.* at PageID.174). However, at the

evidentiary hearing conducted by the Magistrate Judge on April 30, 2018, Plaintiff indicated that she was willing to reduce her request to \$150,000.00, in light of the fact that Defendant repaid her the \$20,000.00 retainer fee that she initially paid him. *See also* 9/18/2017 R&R, ECF No. 32 at PageID.106 (noting that the State of Michigan Attorney Discipline Board report similarly indicated that Defendant repaid Plaintiff the retainer fee). The Magistrate Judge issued a Report and Recommendation on May 17, 2018, recommending that Plaintiff's motion be granted and that default judgment in the amount of \$150,000.00 be entered against Defendant. The Report and Recommendation was duly served on the parties.¹ No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore, the Court will approve and adopt the Report and Recommendation as the Opinion of the Court.

On May 7, 2018, Plaintiff filed a "Motion Asking this Court to Put in Writing in the Judgment Ways for Defendant to Pay Plaintiff" (ECF No. 65). Federal Rule of Civil Procedure 69 provides procedures for the enforcement of a money judgment. FED. R. CIV. P. 69. Moreover, Federal Rule of Civil Procedure 62(a) prohibits execution on a money judgment or any enforcement proceedings "until 14 days have passed after its entry." FED. R. CIV. P. 62(a). Therefore, Plaintiff's motion is properly denied.

Accordingly:

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 66) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Judgment by Default (ECF No. 59) is GRANTED for the reasons stated in the Report and Recommendation.

¹Service of the Report and Recommendation on Defendant was returned, marked "return to sender," "not deliverable as addressed" and "unable to forward" (ECF No. 67). Defendant has failed to keep the Court apprised of his current address.

IT IS FURTHER ORDERED that Plaintiff’s “Motion Asking this Court to Put in Writing in the Judgment Ways for Defendant to Pay Plaintiff” (ECF No. 65) is DENIED.

A Default Judgment consistent with this Order will issue.

Dated June 6, 2018

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge