

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

SAFE AUTO INSURANCE COMPANY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:08cv253-DCB-JMR

MARCUS PICKETT and
GERARD W. DONALD and REGINA DONALD

DEFENDANTS

**ORDER AND PARTIAL DEFAULT JUDGMENT AS TO DEFENDANTS MARCUS
PICKETT, GERARD W. DONALD AND REGINA DONALD**

THIS day this cause came before the Court on Plaintiff's Two (2) Motions for Default Judgment [docket entry nos. 10 and 20] pursuant to Federal Rule of Civil Procedure 55(b). The motions seek default judgment against defendants Marcus Pickett, Gerard Donald and Regina Donald.

According to the complaint, on September 17, 2006, defendant Marcus Pickett ("Pickett") was operating Andre Woods' automobile when he was involved in a collision with defendants Gerard and Regina Donald ("the Donalds"). Subsequently, the Donalds filed suit against Pickett in the Circuit Court of Adams County, Mississippi, seeking damages from the accident.

Plaintiff Safe Auto Insurance Company ("Safe Auto") filed this action for declaratory relief on August 1, 2008. Therein, Safe Auto seeks a declaration that the automobile insurance policy

issued to Andre Woods¹ was void *ab initio* at the time of the collision due to nonpayment of premiums and, therefore, provides no coverage to Woods or Marcus Pickett in the pending state court action filed by the Donalds.

Marcus Pickett was duly served with the Summons and Complaint on September 8, 2008, and said process was properly returned and filed herein. Since that time, Pickett has failed to plead or otherwise defend this action and is in default. Said default was entered by the Clerk on November 4, 2008.

Defendants Gerard Donald and Regina Donald also were duly served with the Summons and Complaint on December 21, 2008, and said process was properly returned and filed herein. Since that time, Gerard Donald and Regina Donald have failed to plead or otherwise defend this action and are in default. Said default was entered by the Clerk on January 21, 2009.

For these reasons, the Court finds Safe Auto's motions for default judgment to be well-taken. The Court finds that defendants Markus Pickett, Gerard Donald and Regina Donald are in default in this action. However, since Andre Woods has not yet been served with process or appeared in this cause, the Court reserves making any further findings or entering a Final Judgment until such time as Andre Woods has been served and had an opportunity to appear.

¹ Andre Woods was not originally made a party to this action. Safe Auto filed an amended complaint on July 15, 2009, adding Woods as a defendant.

Accordingly,

IT IS HEREBY ORDERED that Safe Auto's Motion for Default Judgment as to Defendant Marcus Pickett [docket entry no. 10] is GRANTED.

IT IS FURTHER ORDERED that Safe Auto's Motion for Default Judgment as to Defendants Gerard and Regina Donald [docket entry no. 20] is GRANTED.

IT IS FURTHER ORDERED that default judgment hereby is entered against defendants Marcus Pickett, Gerard Donald and Regina Donald.

SO ORDERED AND ADJUDGED, this the 20th day of July 2009.

_____ s/ David Bramlette _____

UNITED STATES DISTRICT JUDGE