

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AMERICAN MODERN HOME)
INSURANCE COMPANY,)
)
Plaintiff,)
)
v.) No. 4:16CV215 CDP
)
AARON THOMAS, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

After being served with process, defendants Aaron and Aimee Thomas failed to timely answer or otherwise respond to plaintiff American Modern Home Insurance Company’s complaint, and the clerk of court entered default against them. American Modern Home has since moved for default judgment against these defendants, and those motions are pending before me. The Thomases have now responded to the allegations raised in the complaint and they request that the case be allowed to proceed.¹ (*See* ECF 20, ECF 21.) I will construe these responses as the Thomases’ answers to the complaint and will grant leave for them to be filed out of time. Upon review of the proceedings and the representations made by the Thomases in their answers, I find good cause to set aside the clerk’s entries of default in this matter. Fed. R. Civ. P. 55(c). American Modern Home’s motions for default judgment will

¹ I note that these defendants are both proceeding *pro se* and that they have attempted to secure counsel to represent them in this matter.

therefore be denied.

Further review of the file shows the remaining defendant in this case, Thiemann Real Estate, LLC, to have recently waived service of process. No attorney has yet entered an appearance on behalf of Thiemann and no answer or other responsive pleading has been filed on its behalf. Once an attorney enters an appearance on behalf of Thiemann, I will set the matter for a Rule 16 conference.

Finally, the record shows that despite defendant Aimee Thomas having now entered and filed a document with the Court, she has not provided an address at which she can be served papers relating to this case or orders issued by the Court. Since I am permitting this case to proceed, various papers, orders, and other filings will be filed in this case and it will be necessary for *each* defendant to be served with these papers and other documents. Service upon one defendant is not sufficient to constitute service upon another. I will give Aimee Thomas additional time to file a written memorandum informing the clerk of her address, which will then be entered upon the docket. In addition, all parties are advised of Rule 11(a), Federal Rules of Civil Procedure, which provides in relevant part that “[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney’s name – or by a party personally if the party is unrepresented. *The paper must state the signer’s address, e-mail address, and telephone number.*”

Accordingly,

IT IS HEREBY ORDERED that the responsive documents filed at ECF 20 and

ECF 21 shall be considered to be defendants Aaron Thomas's and Aimee Thomas's answers to the complaint in this action, respectively, and defendants Aaron Thomas and Aimee Thomas are granted leave to file these answers out of time.

IT IS FURTHER ORDERED that, for good cause shown, the clerk's entries of default against defendant Aaron Thomas [11] and defendant Aimee Thomas [8] are set aside.

IT IS FURTHER ORDERED that plaintiff American Modern Home's motions for default judgment against Aaron Thomas [12] and against Aimee Thomas [13] are denied.

IT IS FURTHER ORDERED that, not later than **June 3, 2016**, defendant Aimee Thomas shall file a written memorandum informing the clerk of court of her address, which will then be entered upon the docket. The clerk shall mail a copy of *this* Order to Aimee Thomas at the address averred by plaintiff American Modern Home to be her last known address: 1703 Stoney Terrace Drive, Ballwin, MO 63021. (See Kraushaar Affid., ECF 19.)

This matter will be set for a Rule 16 conference upon defendant Thiemann Real Estate, LLC's entry of appearance.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 25th day of May, 2016.