

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARY ANNE DIVALD, individually

Case No. 3:13-cv-00199-MMD-VPC

Plaintiff,

ORDER

v.

JAMES K. SALAY, individually,

Defendant.


This action involves alleged improper and fraudulent conduct relating to distribution of estate funds. Plaintiff alleges that defendant, her uncle, fraudulently induced plaintiff's mother and defendant's sister to sign over to defendant distributions belonging to plaintiff. Plaintiff seeks default judgment while defendant moves to set aside clerk's entry of default.

Defendant, who is proceeding pro se, claims that he did not timely appear because he did not realize the action had not been dismissed. Defendant claims he relied on Plaintiff's representation in a conversation about her mother's mental state that the lawsuit would be dropped. Defendant seeks a twenty (20) day extension of time for him to retain counsel to respond to the Complaint. Plaintiff questions Defendant's credibility, particularly given the lack of details about the conversation. Plaintiff argues that Defendant has intentionally engaged in delay and asks for certain conditions to be imposed if the Court were to set aside the default. However, the Court finds that in light of Defendant's pro se status, good cause exists to set aside the default.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is therefore ordered that Plaintiff's Motion for Default Judgment (dkt. no. 14) is denied. It is further ordered that Defendant's Motion to Set Aside Clerk's Entry of Default (dkt. no. 15) is granted. Defendant shall have until December 12, 2013, to respond to the Complaint.

DATED THIS 18th day of November 2013.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE