

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:17-CV-123-BO

ALFRED L. JACKSON,)
Plaintiff,)
)
v.)
)
THE COASTAL COMPANIES, LLC,)
Defendant.)

ORDER

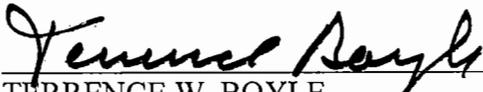
This matter is before the Court on defendant’s motion to dismiss for insufficient service of process [DE 9], defendant’s motion for extension of time [DE 11], and plaintiff’s motion for default judgment [DE 15]. The matters have been fully briefed and are ripe for ruling. For the following reasons, defendant’s motions to dismiss for insufficient service and for extension of time are denied, and plaintiff’s motion for default judgment is denied.

This dispute is about plaintiff’s attempts to serve defendant. Plaintiff’s process server arrived at Sibyl Saunders’ home in Supply, North Carolina on December 2, 2017. Sibyl Saunders is the spouse of Mark Saunders, who is a managing member of the limited liability company named in this lawsuit. The parties contest whether Mark Saunders was actually served, which is a factual question, and alternatively whether service upon Sibyl Saunders is sufficient under the North Carolina Rules of Civil Procedure, a legal question.

First, default judgments even when proper service was unequivocally effected are disfavored. *See Colleton Prep. Acad., Inc. v. Hoover Universal, Inc.* 616 F.3d 413, 417 (4th Cir. 2010) (“We have repeatedly expressed a strong preference that . . . claims and defenses be disposed of on their merits.”).

This case is in the very early stages. In order to proceed to the underlying matters with efficiency, plaintiff is GRANTED thirty (30) days from the date of entry of this order to properly effect service on defendant. Once defendant has been served, the case may proceed normally. If plaintiff does not properly serve defendant, plaintiff's case may be dismissed for failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, the pending motions [DE 9, 11, 15] are all DENIED.

SO ORDERED, this 13 day of April, 2018.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE