

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
7:15-CV-38-BR

IAN S. GOTTLIEB, as biological father and)
next friend of GG and JG,)
)
Plaintiff,)
)
v.)
)
ERIC SCHNEIDERMAN, Attorney General)
of New York State; HON. ELLEN)
GESMER, Supreme Court of New York)
County Justice; and ERICA F. GOTTLIEB,)
)
Defendants.)

ORDER

This case comes before the court on several pending motions: (1) the application of pro se plaintiff Ian S. Gottlieb (“plaintiff”) to proceed *in forma pauperis* (“IFP”) (D.E. 1); (2) a motion by defendant Erica F. Gottlieb (“defendant Gottlieb”) for extension of time for her to file an answer (D.E. 17); and (3) a motion by plaintiff for entry of default against defendant Gottlieb. For the reasons set forth below, the motion to proceed IFP will be denied as moot, the motion for extension of time to file an answer will be allowed, and the motion for entry of default will be denied.

To establish entitlement to IFP status, an applicant must show that he “cannot because of his poverty pay or give security for the costs . . . and still be able to provide himself and dependents with the necessities of life.” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948) (internal quotation marks omitted). Here, notwithstanding the information submitted by plaintiff regarding his own financial situation, on 8 July 2015, he paid the required filing fee. (*See* D.E. 6). Because the filing fee has since been paid, plaintiff’s motion to proceed IFP is DENIED AS MOOT.

Upon the payment of the filing fee, plaintiff's complaint (D.E. 7) was filed and the action was formally commenced. Defendant Gottlieb was served on 14 July 2015 and her answer was due on 4 August 2015. Defendant Gottlieb filed the pending motion for extension of time (D.E. 17) on 14 August 2014. In it, she explains that she was not initially able to raise the necessary funds to retain an attorney to handle her defense and once she retained an attorney, her attorney had to complete registration with the court in order to file documents electronically. Plaintiff opposes the motion for extension and in response, moves for entry of default against defendant Gottlieb. (*See* Mot. for Entry of Default (D.E. 18); Aff. In Support (D.E. 19)).

Having considered the parties' submissions, the court finds that good cause has been shown for the brief extension sought by defendant Gottlieb in light of the excusable neglect demonstrated. *See* Fed. R. Civ. P. 6(b)(1)(B). Her motion for extension of time to answer is accordingly ALLOWED. Defendant Gottlieb shall be permitted until 3 September 2015 to file an answer or other response to plaintiff's complaint. In light of the court's ruling on defendant Gottlieb's motion for extension of time to answer, plaintiff's motion for entry of default is DENIED.

SO ORDERED, this 28th day of August 2015.


James E. Gates
United States Magistrate Judge