

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:18-CV-34-D

U.S. BANK, N.A., as Trustee for Green Tree)
2008-HEI,)
Plaintiff,)
v.)
MARTHA LEWIS, ROY NEIL LEWIS,)
KELLY DIANE LEWIS, CLARA D.)
LEWIS, RUBY A. BAZEN, and)
DEPARTMENT OF THE TREASURY)
INTERNAL REVENUE SERVICE,)
Defendants.)

ORDER

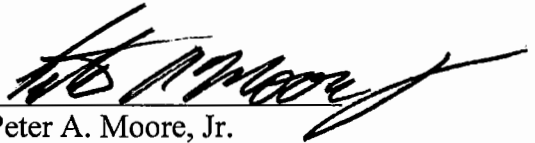
This matter is before the clerk on the motion for entry of default [DE-16] filed by plaintiff.

This action was removed to this court on March 1, 2018, by defendant Department of the Treasury—Internal Revenue Service [DE-1]. Thereafter, plaintiff filed a notice of state court pleadings, showing that the state court entered default against all named defendants in the action [DE-10-8; 10-9]. Prior to the removal of the action, however, the state court later vacated the entry of default as to Department of the Treasury—Internal Revenue Service [DE-1-8]. No other filings in the record, however, indicate that the state court vacated the entry of default as to the other named defendants.

Plaintiff now moves for entry of default as to all named defendants, with the exception of Department of the Treasury—Internal Revenue Service. The motion is DENIED as moot. Once a case is properly removed, “the federal court takes the case in the posture in which it departed the state court, treating everything done in the state court as if it had been done in federal court.” Holmes v. AC & S, Inc., 388 F. Supp. 2d 663, 667 (E.D. Va. 2004) (citing Butner v. Neustadter, 324 F.2d 783 (9th Cir. 1963); Munsey v. Testworth Lab., 227 F.2d 902 (6th Cir. 1955)). Because

the state court previously entered default against defendants Martha Lewis, Roy Neil Lewis, Kelly Diane Lewis, Clara D. Lewis, and Ruby A. Bazen, there is no need to the clerk to enter default again.

SO ORDERED. This the 7th day of January, 2019.


Peter A. Moore, Jr.
Clerk of Court