

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:14-cv-00165-FDW-DSK**

LARRY BAXTER, JR.,)
)
 Plaintiff,)
)
 vs.)
)
 BROCK & SCOTT, PLLC, JP)
 MORGAN CHASE & CO., ANDREA)
 HUDSON, CLARENCE CHAPPELLE,)
 JEREMY WILKINS, and TRUSTEE)
 SERVICES OF CAROLINAS, LLC,)
)
 Defendants.)
)

ORDER

THIS MATTER is before the Court *sue sponte* because Defendants Brock & Scott, PLLC, Thomas McDonald, Trustee Services of Carolina, LLC, and Jeremy Wilkins have failed to file an answer to Plaintiff’s Complaint within the required time limitations, even after the Court granted these Defendants’ Motion for an Extension of Time to file an answer until May 27, 2014. (Doc. No. 12).

The Court notes that the Motion to Dismiss filed by Defendants Brock & Scott, PLLC, Thomas McDonald, Trustee Services of Carolina, LLC, and Jeremy Wilkins, (Doc. No. 18), was solely based on Rule 12(b)(6) of the Federal Rules of Civil Procedure and therefore did not toll the deadline to file an answer under the Standing Order Governing Civil Case Management Before the Honorable Frank D. Whitney, Misc. No. 3:07-mc-00047, (Doc. No. 2¹). This Standing Order, which was transmitted to Defendant via ECF, states “a defendant who

¹The Motion to Dismiss, (Doc. No. 13), filed by Defendants Clarence Chappelle, Andrea Hudson, and JP Morgan Chase & Co. was filed pursuant 12(b)(1) as well as 12(b)(6). Under the Court’s Standing Orders, Misc. No. 3:07-mc-00047 (Doc. No. 2), “the filing of a pre-answer motion to dismiss for one or more of the reasons set forth in Rule 12(b)(1), 12(b)(2), or 12(b)(5), or a motion for a more definite statement pursuant to Rule 12(e), will toll the time required to plead responsively until ten (10) days following the disposition of the motion.”

contemplates filing a Rule 12(b)(6) motion must still serve and file a timely responsive pleading.” (Doc. No. 2) (emphasis in original). Accordingly, these Defendants are ORDERED to file an answer to Plaintiff’s Complaint by **Monday, June 2, 2014**. If Defendants fail to file an answer, the Court will entertain a motion for entry of default. Additionally, these Defendants are STRONGLY ADVISED to review the Federal Rules of Civil Procedure, the Local Rules, and the Standing Order Governing Civil Case Management Before the Honorable Frank D. Whitney so that no other issues of this sort arise again in these proceedings.

IT IS SO ORDERED.

Signed: May 29, 2014

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

