

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:17-cv-311-FDW**

<b>WILLIE T. KELLY, JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>GEORGE T. SOLOMON, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**ORDER**

**THIS MATTER** is before the Court on Plaintiff’s pro se “Motion, Request for Entry of Default,” (Doc. No. 51).

Defendant Hayes’ Answer was due on December 14, 2018. See (Doc. No. 32). Defendant Hayes timely filed an Answer on December 4, 2018. (Doc. No. 40). The other Defendants’ Answers were due on January 9, 2019. See (Doc. No. 37). They filed their Answer on January 22, 2019, (Doc. No. 47), along with a Motion to Deem Answer Timely Filed, (Doc. No. 48). The Court granted the Motion on January 24, 2019, based on Defendants’ showing of excusable neglect and the lack of apparent prejudice to Plaintiff. (Doc. No. 49).


In his Motion post-marked February 8, 2019, Plaintiff argues that default judgment should be entered in his favor because Defendants failed to timely plead or otherwise defend this action. Plaintiff argues that the Federal Rules require timely filing of pleadings and notes that an extension of time includes the danger of unfair prejudice to the non-moving party.

Plaintiff’s Motion is meritless as to Defendant Hayes because the Answer was timely filed. Insofar as it addresses the other Defendants, the Motion will be denied. The Motion fails to comply with Rule 55 of the Federal Rules of Civil Procedure, Defendants’ Motion to Deem Answer Timely

Filed was granted long before Plaintiff filed his Motion seeking default, and Plaintiff fails to allege why the Motion to Deem was improperly granted or how the Court's acceptance of the Answer prejudiced him in any way. Plaintiff's Motion will therefore be denied.

**IT IS THEREFORE ORDERED** that Plaintiff's "Motion, Request for Entry of Default," (Doc. No. 51), is **DENIED**.

Signed: February 19, 2019

  
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Frank D. Whitney  
Chief United States District Judge

