

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

ADRIAN CARTER, )
Plaintiff, )
vs. )No. CIV-08-406-FHS
BOARD OF GOVERNORS OF THE FEDERAL RESERVE )
SYSTEM, et.al., )
Defendants. )

ORDER

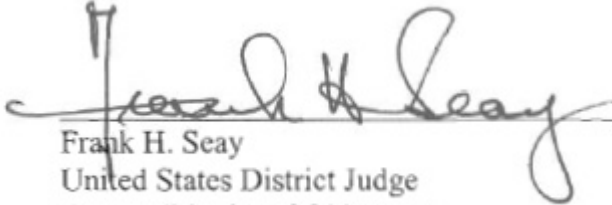
Before the court for its consideration is the Plaintiff's Motion for Summary Judgment seeking default judgment against all defendants. It simply states "All premises having been duly considered, requests this honorable Court to issue a routine order for summary judgment against the defendants. For they have defaulted in 08-406-FHS." It is unclear if plaintiff is seeking a default judgement or a summary judgment.

If plaintiff is seeking a motion for summary judgment his request is premature and as such must be denied. Summary Judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56 ( c) See also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986). This case is in its earliest phase. There are few pleadings. There are no depositions or answers to interrogatories. There is absolutely no documentation on which to base a summary judgment. Accordingly, plaintiff's motion for summary judgment is denied.

If plaintiff is seeking a default judgment it is also premature. F.R.C.P. 55 (a) states "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Plaintiff must seek the default judgment from the Clerk of the Court before he seeks a judgment from this court. Accordingly, plaintiff's motion for default is denied.

Accordingly, plaintiff's motion for summary judgment is **DENIED.**

**IT IS SO ORDERED** this 20th day of January, 2009.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma