

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

ROBERT F. RIGGINS,

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Plaintiff,

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v.

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Civil Action No. SA-10-CV-293-XR

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WELLS FARGO BANK, N.A., OPTION
ONE MORTGAGE CO., AMERICAN
HOME MORTGAGE SERVICING, INC.,
HIGHLAND CAPITAL LENDING, INC.,
ROBERT D VALDESPINO, TROY
MARTIN, DEBORAH MARTIN, BRENDA
ROLON, KATHLEEN VARGAS, RON
BEDFORD, MICHAEL W. ZIENTZ,
KATHY SMITH, MARTIN ALLEN,
CHARLES RAMSEY, DELBERT
WALDRIP, JOHN AND JANE DOES 1-
1000, L. KELLER MACKIE, BRANDON
WOLF, and FREEDOM LENDING,

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Defendants.

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ORDER

On this day, the Court considered Plaintiff's Motion for Default Judgment (Docket Entry No.

17). Having considered the motion and the status of the case, the motion is DENIED.

Statement of Case.

Plaintiff Robert F. Riggins, *pro se*, filed suit against multiple Defendants seeking declaratory and injunctive relief. It appears that Riggins is challenging the foreclosure of property and the procedures related to foreclosure.

Procedural History

Riggins filed suit against the Defendants on May 13, 2010,¹ following an order denying Plaintiff's motion to proceed in forma pauperis.² On May 25, 2010, a summons was issued.³ There is no certificate that service has been executed. Plaintiff now moves for a default judgment against Defendants L. Keller Mackie, Brandon Wolf, Michael W. Zientz, Robert D. Valdespino, Kathleen Vargas, Brenda Rolon, Ron Bedford, Troy Martin, and Deborah Martin.⁴ The other defendants have filed motions to dismiss this case⁵ or have secured an extension of time to respond.⁶

Legal Standard

The Clerk's entry of default and the Court's consideration of a motion for default judgment is governed by Rule 55 of the Federal Rules of Civil Procedure. FED. R. CIV. P. 55(a) (regarding entry of default by clerk); *id.* R. 55(b) (regarding default judgment).

Analysis

There is no certificate of service confirming that Defendants L. Keller Mackie, Brandon Wolf, Michael W. Zientz, Robert D. Valdespino, Kathleen Vargas, Brenda Rolon, Ron Bedford, Troy Martin, and Deborah Martin have been served in accordance with the Federal Rules of Civil Procedure. As a result, Defendants are not technically in default. Riggins's motion fails to show

¹Compl., May 13, 2010 (Docket Entry No. 7).

²Order, May 5, 2010 (Docket Entry No. 4).

³Summons, May 25, 2010 (Docket Entry No. 6).

⁴Pl.'s Mot. for Default J., Jun. 28, 2010 (Docket Entry No. 17).

⁵Mot. to Dismiss, Jun. 15, 2010 (Docket Entry No. 10); Mot. to Dismiss or in the Alternative Mot. for More Definite Statement, Jun. 15, 2010 (Docket Entry No. 12).

⁶Order, Jun. 23, 2010 (Docket Entry No. 14).

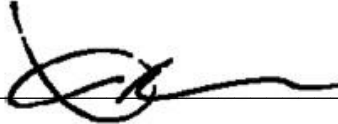
that default judgment is warranted.

Conclusion

Plaintiff's motion is DENIED.

It is so ORDERED.

SIGNED this 29th day of June, 2010.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a horizontal line.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE