

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

U.S. BANK, NA,

Plaintiff,

v.

Case No. 13-CV-00072

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY CUSTOMS AND
BORDER PROTECTION,**

Defendant.

DECISION AND ORDER

Plaintiff U.S. Bank sues the United States Department of Homeland Security, Customs and Border Protection for relief under the Declaratory Judgment Act, 28 U.S.C. § 2201. On April 18, 2013, plaintiff filed and served an amended complaint. Defendant has not yet responded to this pleading, and the parties disagree about the deadline for its response. Plaintiff argues that Fed. R. Civ. P. 15(a)(3) gave defendant 14 days to respond, and it moves for entry of default judgment because defendant has missed this deadline. Defendant argues that Fed. R. Civ. P. 12(a)(2) extends its response time to 60 days because it is an agency of the U.S. government. It moves to clarify and if necessary extend the deadline for its response.

I find that Rule 15(a)(3) governs this case because it specifically addresses responses to amended pleadings. This rule states that, “[u]nless the court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.” Fed. R. Civ. P. 15(a)(3). Here, the deadline for

responding to the original complaint was April 29, 2013, which is less than 14 days after service of the amended complaint. Thus, the rules only gave defendant 14 days to respond to plaintiff's amended complaint unless I decide to extend the deadline. Defendant asks that I extend the deadline because it was reasonably confused about the time allowed for its response and is ready to defend the case on the merits. I will grant its request and give it until June 3, 2013 to respond. I will also grant its request to stay briefing on the motion for summary judgment recently filed by plaintiff. Defendant plans to file a motion to dismiss for lack of subject matter jurisdiction in lieu of an answer. If I grant this motion, briefing on the summary judgment motion will be unnecessary.

THEREFORE, IT IS ORDERED that plaintiff's motion for default judgment (Docket #13) is **DENIED**.

IT IS FURTHER ORDERED that defendant's motion to clarify and, if necessary, extend the deadline for its response to the amended complaint (Docket #16) is **GRANTED**. Defendant shall respond to the amended complaint on or before **June 3, 2013**.

IT IS FURTHER ORDERED that briefing on plaintiff's motion for summary judgment (Docket #7) is **STAYED** until further notice.

Dated at Milwaukee, Wisconsin, this 24th day of May 2013.

s/ Lynn Adelman

LYNN ADELMAN
District Judge