

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

**AMERICAN GENERAL LIFE
INSURANCE COMPANY,**

Plaintiff,

v.

Case No.: 1:22cv213-MW/ZCB

KENDAL E. WILSON, JR. et al.,

Defendants.

_____ /

**ORDER GRANTING DEFAULT JUDGMENT
AS TO NONAPPEARING DEFENDANTS**

This is an interpleader case brought to resolve conflicting claims to the benefits of a term life insurance policy. One of the six Defendants, Joshua R. Crosby, has moved for a judgment of default as to four of the other Defendants: Kendal E. Wilson, Jr., Valarie Henry, Asbury A. Minus, and Williams-Thomas Funeral Home. ECF No. 26. For the reasons that follow, Defendant Crosby's motion, ECF No. 26, is **GRANTED**. This Court will address the simultaneously filed Notice of Settlement Contingent on Court Approval, ECF No. 25, by separate order.

I

This Court begins with the applicable standard. When deciding whether a party is entitled to a default judgment, "a court must ensure that the well-pleaded allegations in the complaint, which are taken as true due to the default, actually state

a substantive cause of action and that there is a substantive, sufficient basis in the pleadings for the particular relief sought.” *Taylor v. Frank Stewart Trucking, Inc.*, No. 08-14009-CIV, 2008 WL 4753355, at *2 (S.D. Fla. Oct. 27, 2008) (citing *Tyco Fire & Sec. LLC v. Alcocer*, 218 F. App’x 860, 863 (11th Cir. 2007) (unpublished)). This is because “a default is not treated as an absolute confession by the defendant of his liability and of the plaintiff’s right to recover.” *Nishimashu Const. Co., Ltd. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975).¹ Nor is a defaulting defendant “held to admit facts that are not well-pleaded or to admit to conclusions of law.” *Id.*

The Eleventh Circuit has interpreted a “sufficient basis” as “being akin to that necessary to survive a motion to dismiss for failure to state a claim.” *Surtain v. Hamlin Terrace Found.*, 789 F.3d 1239, 1245 (11th Cir. 2015) (citing *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1370 n.41 (11th Cir. 1997) (“[A] default judgment cannot stand on a complaint that fails to state a claim.”)). In other words, “a motion for default judgment is like a reverse motion to dismiss for failure to state a claim.” *Surtain*, 789 F.3d at 1245 (citing *Wooten v. McDonald Transit Assocs., Inc.*, 775 F.3d 689, 695 (5th Cir. 2015)).

II

¹ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

This Court next summarizes this case’s facts and procedural history.

A

Plaintiff alleges the following in its complaint for interpleader relief. On or about December 26, 2013, Paulette T. Crosby (“the Decedent”) purchased a term life insurance policy from Plaintiff, a Texas-based insurance company with its principal place of business in Texas. ECF No. 1 ¶¶ 1, 10. The policy had a face amount of \$500,000. *Id.* The original beneficiaries were Defendants Crosby and Wilson. *Id.* From then until her death on June 28, 2021, the Decedent attempted to change the policy’s beneficiaries seven times. *Id.* ¶¶ 11–13, 15, 17, 19, 21. Plaintiff carried out the first three changes but rejected the final four. *Id.* ¶¶ 11–13, 16, 18, 20, 22.

The Decedent attempted to list the following individuals as beneficiaries at one point or another: Defendant Crosby, Defendant Wilson, Defendant Henry, Defendant Cook, and two minors, A.C. and M.C. *Id.* ¶¶ 10–13, 15, 17, 19, 21. A.C. and M.C. are each the beneficiaries of a trust, and the co-trustees of each trust are Defendants Henry and Minus. *Id.* at 1. Defendant Minus is a party to this case only in his capacity as co-trustee of the trusts for A.C. and M.C. *Id.* All of these Defendants are Florida residents. *Id.* ¶¶ 2–6.

Following the Decedent’s death, Defendant Henry assigned \$14,412 of her interest in the policy—as well as \$14,412 of A.C.’s interest in the policy and \$14,412

of M.C.’s interest in the policy—to Defendant Williams-Thomas Funeral Home. *Id.* ¶¶ 24–26. Defendant Cook also assigned \$14,412 of her interest in the policy to Defendant Williams-Thomas Funeral Home. *Id.* ¶ 27. Defendant Williams-Thomas Funeral Home is a Florida company. *Id.* ¶ 7. Defendant Crosby resides in Alachua County, Florida, where Defendant Williams-Thomas Funeral Home also has its principal place of business. *Id.*

Plaintiff has received claim forms from Defendants Crosby, Wilson, Henry (individually and in her capacity as co-trustee of the trusts for A.C. and M.C.), Minus (in his capacity as co-trustee of the trusts for A.C. and M.C.), and Cook, each seeking benefits from the Decedent’s policy. *Id.* ¶ 29; *see also* ECF No. 1-13 (claim forms to Plaintiff). Defendant Williams-Thomas Funeral Home did not submit a claim.

As of August 26, 2022, Defendants had not resolved their competing claims to the proceeds of the Decedent’s policy with Plaintiff. ECF No. 1 ¶¶ 28, 30.

B

On August 26, 2022, Plaintiff filed its interpleader complaint against the six Defendants “to resolve conflicting claims and potential rights” to the policy benefits. *Id.* ¶ 33. Defendants Crosby and Cook have appeared in this case:

- Defendant Crosby answered the complaint on October 24, 2022. ECF No. 9.
- Defendant Cook answered the complaint on October 27, 2022. ECF No. 14.

Furthermore, on October 24, 2022, Defendant Crosby filed an unopposed motion to intervene on behalf of A.C. and M.C. ECF No. 10. This Court granted that motion on October 25, 2022, ECF No. 11, and A.C. and M.C. proceed as Intervenor Plaintiffs.

The remaining Defendants have not appeared:

- Defendant Wilson waived service on December 20, 2022. ECF No. 19. Defendant Wilson's response was due on February 23, 2023. Defendant Wilson has not responded, moved for an extension, or otherwise appeared.
- Defendant Henry waived service on December 20, 2022. ECF No. 16. Defendant Henry's response was due on February 21, 2023. Defendant Henry has not responded, moved for an extension, or otherwise appeared.
- Plaintiff served Defendant Minus via mail on September 14, 2022. ECF No. 8. Defendant Minus's response was due on October 5, 2022. Plaintiff also served Defendant Minus via personal service on February 2, 2023. ECF No. 18. Defendant Minus's response was due on February 23, 2023. Defendant Minus has not responded, moved for an extension, or otherwise appeared.
- Plaintiff served Defendant Williams-Thomas Funeral Home on January 25, 2023. ECF No. 17. Defendant Williams-Thomas Funeral Home's response was due on February 15, 2023. Defendant Williams-Thomas Funeral Home has not responded, moved for an extension, or otherwise appeared.

On February 23, 2023, Defendant Crosby moved for an entry of default against Defendants Wilson, Henry, Minus, and Williams-Thomas Funeral Home. ECF No. 20. The Clerk entered default as to each of those four Defendants on February 27, 2023. ECF No. 21 (Defendant Wilson); ECF No. 22 (Defendant Henry); ECF No. 23 (Defendant Minus); ECF No. 24 (Defendant Williams-Thomas Funeral Home). Defendant Crosby then filed the present motion on February 28, 2023. ECF No. 26. At the same time, Defendant Crosby filed a Notice of Settlement Contingent on Court Approval stating that Defendants Crosby, Cook, A.C., and M.C. have reached a settlement. ECF No. 25. According to Defendant Crosby, the settlement is contingent (1) on court approval, given that the settlement involves minors, and on (2) default judgment being granted as to Defendants Wilson, Henry, Minus, and Williams-Thomas Funeral Home. *Id.*

III

This Court now turns to Defendant Crosby's argument in favor of default judgment. Under Federal Rule of Civil Procedure 55, a party is entitled to default judgment only after a default has been entered. "Although it is typically the plaintiff who requests default judgment, the right of a defendant in an interpleader action to do so is also recognized. Generally, interpleader defendants can utilize Rule 55 when other parties fail to defend." *Colonial Penn Life Ins. Co. v. Tuff*, Civil Action No. 1:20-cv-04894-SDG, 2022 WL 17420802, at *1 (N.D. Ga. Mar. 29, 2022) (citation

omitted); *see, e.g., Publix Super Markets, Inc. v. Wilkins*, Case No. 8:17-cv-1918-T-27JSS, 2018 WL 3650108, at *2 n.1 (M.D. Fla. Jun. 4, 2018) (same); *Gulf Coast Galvanizing, Inc. v. Steel Sales Co.*, 826 F. Supp. 197, 203–04 (S.D. Miss. 1993) (“[A]n interpleader claimant may obtain judgment when the remaining claimants have defaulted unless, however, the competing claimant is the United States.”); *Amoco Prod. Co. v. Aspen Grp.*, 59 F. Supp. 2d 1112, 1116 (D. Colo. 1999) (“I conclude that Rule 55 can be employed by interpleader claimants/defendants pursuant to Rule 22”; noting that Rule 55(d)’s list of parties entitled to default judgment “is not exclusive”) (citations omitted).

Here, Defendant Crosby moved for an entry of default as to Defendants Wilson, Henry, Minus, and Williams-Thomas Funeral Home, and a default has been entered as to each of them. Thus, Defendant Crosby may seek default judgment as to Defendants Wilson, Henry, Minus, and Williams-Thomas Funeral Home.

“Entering default judgment against non-answering defendants in an interpleader action is appropriate because an interpleader defendant who fails to answer forfeits any claim of entitlement to the subject of the interpleader action.” *Tuff*, 2022 WL 17420802, at *1 (quotations omitted); *see, e.g., Gulf Coast Galvanizing, Inc.*, 826 F. Supp. at 203 (same). Here, Defendants Wilson, Henry, Minus, and Williams-Thomas Funeral Home have not responded to the complaint

or otherwise appeared. Therefore, default judgment is appropriate as to those Defendants.

Accordingly,

IT IS ORDERED:

1. Defendant Joshua R. Crosby's motion for default judgment against Defendants Kendal E. Wilson, Jr., Valarie Henry (both in her personal capacity and in her capacity as co-trustee for the trusts for the minors A.C. and M.C.), Asbury A. Minus (in his capacity as co-trustee for the trusts for the minors A.C. and M.C.), and Williams-Thomas Funeral Home, ECF No. 26, is **GRANTED**.
2. Defendants Kendal E. Wilson, Jr., Valarie Henry (both in her personal capacity and in her capacity as co-trustee for the trusts for the minors A.C. and M.C.) Asbury A. Minus (in his capacity as co-trustee for the trusts for the minors A.C. and M.C.) and Williams-Thomas Funeral Home have no claim to the proceeds of Paulette T. Crosby's policy with Plaintiff (Policy No. YMD7323157).
3. Plaintiff is hereby discharged from any further liability to Defendants Kendal E. Wilson, Jr., Valarie Henry (both in her personal capacity and in her capacity as co-trustee for the trusts for the minors A.C. and M.C.), Asbury A. Minus (in his capacity as co-trustee for the trusts for the minors A.C. and M.C.), and

Williams-Thomas Funeral Home relating to the proceeds of Paulette T. Crosby's policy with Plaintiff (Policy No. YMD7323157).

4. Defendants Kendal E. Wilson, Jr., Valarie Henry (both in her personal capacity and in her capacity as co-trustee for the trusts for the minors A.C. and M.C.), Asbury A. Minus (in his capacity as co-trustee for the trusts for the minors A.C. and M.C.), and Williams-Thomas Funeral Home are permanently enjoined from maintaining, instituting, or prosecuting any other proceeding in any state or federal court affecting, relating to, or arising out of the proceeds of Paulette T. Crosby's policy with Plaintiff (Policy No. YMD7323157).

SO ORDERED on March 3, 2023.

s/Mark E. Walker

Chief United States District Judge