

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WENDY VEADER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:15-CV-11839-DJC
)	
LIEUTENANT JAMES J.)	
TROMBETTA, <i>in his official</i>)	
<i>Capacity as</i> REHOBOTH CHIEF OF)	
POLICE)	
Defendant)	

MOTION FOR DEFAULT JUDGMENT

NOW COMES the Plaintiff, Wendy Veader (“Plaintiff”), by the undersigned counsel, and respectfully requests that this court grant her motion for default judgment, as permitted by F.R.C.P. Rule 55. Lieutenant James J. Trombetta’s (“Defendant”) has failed to respond to the complaint within the twenty-one (21) days, as required by F.R.C.P. 4(a).

FACTS

Complaint was filed on May 13, 2015. Defendant was served in hand with a copy of the complaint on June 1, 2015, via hand delivery from Deputy Sheriff Benton Keene, III. (Exhibit A). To this day, July 9, 2015, 38 days after receiving service, neither Plaintiff, nor her counsel, have received a response.

SUMMARY

A default judgment against Defendants must be entered. The law is clear that Defendants have twenty-one (21) days to file an answer or responsive pleading to a complaint. F.R.C.P. Rule 4(a) says that the summons must notify the defendant that the failure to appear and defend within the required time “will result in a judgment by default against the defendant for the relief

demand in the complaint”, which is permitted by F.R.C.P. Rule 55. The summons served on each Defendant complied with F.R.C.P. Rule 4(a). Specifically the Summons stated “Within 21 days”...“you must serve on the plaintiff an answer to the attached complaint”...“if you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.”(Exhibit A).

A default judgment in this case is mandatory. F.R.C.P. Rule 4 uses the word *will*, not *may*, indicating that the court does not have the discretion not to grant a motion for default judgment where Defendant fails to respond within twenty-one (21) days. Thus, a default judgment against Defendants for the relief requested in Plaintiff’s complaint is required.

CONCLUSION

Therefore based on the forgoing, Plaintiff respectfully requests that this Court enter a default judgment against Defendant, James J. Trombetta, granting the relief sought in her complaint, as required by F.R.C.P. 4 & 55.

RESPECTFULLY SUBMITTED,
WENDY VEADER,
BY HER ATTORNEY

Dated: July 9, 2015

s/ Richard C. Chambers, Jr.

RICHARD C. CHAMBERS, JR.,
BBO #: 651251
CHAMBERS LAW OFFICE
220 BROADWAY, SUITE 404
LYNNFIELD, MA 01940
TEL: (781) 581-2031
FAX: (781) 581-8449

CERTIFICATE OF SERVICE

This is to certify that on this July 9, 2015, a copy of the foregoing document was electronically filed with the U.S. District Court for the District of Massachusetts through its Electronic Case Filing System.

s/ Richard C. Chambers, Jr.

RICHARD C. CHAMBERS, JR.,

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

ORIGINAL



WENDY VEADER

Plaintiff

v.

Civil Action No.:
1:15-CV-11839-DJC

JAMES J. TROMBETTA

Defendant

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ROBERT M. FARRELL

CLERK OF COURT

/s/ — Francis Castilla

Signature of Clerk or Deputy Clerk



ISSUED ON 2015-05-14 09:56:11.0, Clerk USDC DMA

Civil Action No.: 1:15-CV-11839-DJC

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (name of individual and title, if any) _____
was received by me on (date) _____.

☐ I personally served the summons on the individual at (place) _____
_____ on (date) _____; or

☐ I left the summons at the individual's residence or usual place of abode with (name) _____
_____, a person of suitable age and discretion who resides there,
on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____
_____ on (date) _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other (specify) :

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date

Bristol County Sheriff's Office P.O. Box 8928 New Bedford, MA 02742-0928 (508) 992-6631
Bristol, SS June 9, 2015

I hereby certify and return that on 6/1/2015 at 4:07 PM I served a true and attested copy of the Summons and Complaint, CA Cover Sheet in this action in the following manner: To wit, by delivering in hand to James J. Trombetta at Lieutenant 334 Anawan Street Rehoboth Police Department Rehoboth, MA 02769. Attest Fee (\$2.00) Basic Service Fee (\$30.00) Conveyance (\$4.50) Copies (\$2.00) Postage and Handling (\$2.75) Travel (\$19.20) Total: \$60.45



Deputy Sheriff

Deputy Sheriff Benton Keene, III