

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRADFORD T. WHITMORE, as special)
trustee under the amended and restated)
declaration of trust dated August 12, 1997,)
)
Plaintiff,)
)
vs.)
)
SYMONS INTERNATIONAL GROUP, INC.,)
)
Defendant,)
)
WILMINGTON TRUST COMPANY,)
)
Intervenor,)
)
CONTINENTAL CASUALTY COMPANY,)
)
Intervenor.)

1:09-cv-00391-RLY-TAB

**ENTRY ON WILMINGTON TRUST CO.'S REQUEST FOR AN ENTRY OF
DEFAULT AGAINST SYMONS INTERNATIONAL GROUP, INC.**

Wilmington Trust Company (“WTC”) served its complaint on Symons International Group, Inc. (“SIG”) on October 30, 2012. (Docket # 180). The deadline for SIG to serve its answer was November 20, 2012. FED. R. CIV. PROC. 12(a). WTC requested an entry of default against SIG for failure to plead or otherwise respond on November 26, 2012.

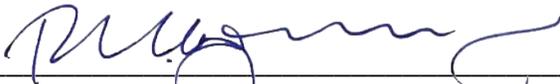
Intervenor Continental Casualty Co. (“CCC”) filed an objection to the entry of default on December 10, 2012. CCC first argues that the request should be denied because SIG has had an appearance on file since 2009 and has never been in technical

default since that time until now. Second, CCC argues that WTC's complaint is virtually identical to Plaintiff Whitmore's complaint and to Count 1 of Whitmore's amended complaint; therefore, SIG's answers to Whitmore's complaint and amended complaint is sufficient to serve as an answer to WTC's complaint. Lastly, CCC argues that SIG's attorney withdrew its appearance; therefore, SIG should receive additional time to hire an attorney and respond.

The fact that this is SIG's first default does not bear on whether a default may be entered. Additionally, CCC offers no authority for its proposition that SIG's answers to Whitmore's complaint and amended complaint should serve as an answer to WTC's complaint. Even if the complaints were identical, Rule 12(a) clearly states an answer must be filed within twenty-one days of service. Lastly, to date, SIG has failed to respond to the allegations made in WTC's complaint. If the withdrawal of its attorney was indeed the reason for its failure to answer, a response should have been entered by this point.

IT IS THEREFORE ORDERED that the Wilmington Trust Co.'s Request for an Entry of Default Against Symons International Group, Inc. is **GRANTED** (Docket # 184).

SO ORDERED this 23rd day of September 2013.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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