

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**BROOKE CREDIT CORPORATION,**

**Plaintiff,**

**v.**

**LOBELL INSURANCE SERVICES, LCC,  
and PAUL ROY EUGENE ELEAZAR, JR.,**

**Defendants.**

**No. 06-2577-CM**

**MEMORANDUM AND ORDER**

Plaintiff Brooke Credit Corporation brings this action against defendants Lobell Insurance Services, LLC and Paul Roy Eugene Eleazar, Jr. The case is before the court on plaintiff's Motion for Entry of Default Judgment and Setting of Hearing on Damages (Doc. 67) and defendants' Motion for Leave to File Answer Out of Time (Doc. 68). Because the court grants defendants' motion and allows defendants to file an answer, plaintiff's motion is denied as moot.

On December 27, 2007, plaintiff filed its Motion for Default Judgment and Setting of Hearings on Damages (Doc. 67). Plaintiff bases this request on defendants' failure to file an answer in this case. Six days later, defendants filed their Motion for Leave to File Answer Out of Time (Doc. 68). Defendants state that their failure to file an answer was due to the time this case has been active, the amount of discovery conducted, and the number of previous filings. Plaintiff did not initially file a response to defendants' motion. After this court issued a show cause order (Doc. 74), plaintiff responded that it does not oppose defendants' motion (Doc. 75).

This court has discretion to grant a defendant leave to file an answer out of time, if defendant

shows that excusable neglect caused the delay. *Jetcraft Corp. v. Banpais, S.A. De C.V.*, 166 F.R.D. 483, 485 (D. Kan. 1996) (citing *Panis v. Mission Hills Bank, N.A.*, 60 F.3d 1486, 1494 (10<sup>th</sup> Cir. 1995)). Here, the court finds that defendants' explanation is excusable neglect. Defendants' Motion for Leave to File an Answer Out of Time is granted. The clerk shall file the proposed answer, attached to Doc. 68 as "Exhibit A," as defendants' answer in this case.

Because the court grants defendants' request to file an answer out of time, and orders the clerk to file the answer, plaintiff's Motion for Entry of Default Judgment and Setting of Hearing on Damages (Doc. 67) is denied as moot.

**IT IS THEREFORE ORDERED** that plaintiff's Motion for Entry of Default Judgment and Setting of Hearing on Damages (Doc. 67) is denied as moot.

**IT IS FURTHER ORDERED** that defendants' Motion for Leave to File Answer Out of Time (Doc. 68) is granted.

**IT IS FURTHER ORDERED** that the clerk shall file the proposed answer, attached to Doc. 68 as "Exhibit A," as defendants' answer.

Dated this 13th day of March 2008, at Kansas City, Kansas.

s/ Carlos Murguia  
**CARLOS MURGUIA**  
**United States District Judge**