

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CARA SMELCER,

Plaintiff,

v.

Case No. 09-2652-JTM

LOCKHART, MORRIS &
MONTGOMERY, INC.,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on plaintiff Cara Smelcer's application for clerk's entry of default. (Dkt. No. 10). Smelcer filed a complaint against the defendant, Lockhart, Morris & Montgomery ("Lockhart"), on December 18, 2009. (Dkt. No. 1).

The application for clerk's entry of default is hereby granted. Rule 55(a) provides that default may be granted when a party "fail[s] to plead or otherwise defend as provided by these rules." To avoid default, a defendant must serve an answer within twenty days after being served with the summons and complaint. *See* Fed.R.Civ.P. 12(a); Fed.R.Civ.P. 55(a).

Lockhart was provided a copy of the Summons and Complaint on December 21, 2009. (Dkt. No. 4). Lockhart signed a waiver of the service of summons on February 21, 2010. (Dkt. No. 4). Lockhart acknowledged in the waiver that an answer must be filed within sixty days from December 21, 2009. (Dkt. No. 4). No answer has been filed and more than sixty days have passed since Lockhart signed the waiver.

IT IS ACCORDINGLY ORDERED this 9th day of July, 2010, that plaintiff's motion for clerk's entry of default (Dkt. No. 10) is granted.

TIMOTHY M. O'BRIEN
Clerk of Court

By s/ S. Smith

Courtroom Deputy