

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

S.S., as Parent and Next Friend)
of L.S., a Minor,)
)
Plaintiff,)
)
v.)
)
ANTHONY DAVID NAPOLITANO, et al.,)
)
Defendants.)

Case No. 18-2491-CM-ADM

MEMORANDUM AND ORDER

This case is before the court on plaintiff’s Motion for Default Judgment against Defendant Anthony David Napolitano (Doc. 20). When defendant Anthony David Napolitano did not respond to plaintiff’s original Complaint, plaintiff eventually filed an application for clerk’s entry of default (Doc. 18) and, after default was entered, a motion for default judgment (Doc. 20). The court had not yet ruled on the motion for default judgment because two defendants were still defending themselves and plaintiff’s claimed damages are intertwined. *See Hunt v. Inter-Globe Energy, Inc.*, 770 F.2d 145, 147 (10th Cir. 1985) (“[W]hen one of several defendants who is alleged to be jointly liable defaults, judgment should not be entered against him until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted.”) (quoting *Frow v. De La Vega*, 82 U.S. 552 (1872)).

Plaintiff has since filed an Amended Complaint (Doc. 46). In light of the new operative complaint and defendant Anthony David Napolitano’s anticipated new deadline for filing a responsive pleading after service, the court denies plaintiff’s motion for default judgment as moot, without ruling on the merits of the motion. If warranted, plaintiff may seek default judgment at a later time against defendant Anthony David Napolitano based on the Amended Complaint.

IT IS THEREFORE ORDERED that on plaintiff's Motion for Default Judgment against Defendant Anthony David Napolitano (Doc. 20) is denied.

Dated this 7th day of May, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge