

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

CHERRY PARK PROPERTIES, LLC,

Plaintiff,

v.

**THE STATE OF KANSAS (DEPARTMENT
OF LABOR), et al.,**

Defendants.

Case No. 22-2018-JAR-TJJ

MEMORANDUM AND ORDER

Plaintiff Cherry Park, LLC was the successful buyer at a foreclosure sale in the District Court of Johnson County, Kansas. Plaintiff filed this action in an attempt to have “title quieted” as to the federal and state tax liens of Defendants the Internal Revenue Service and the State of Kansas. The United States removed this case to federal district court on January 11, 2022. This matter is now before the Court on the United States’ Motion to Dismiss Under Fed. R. Civ. P. 12(b)(1) or 12(b)(6) (Doc. 7) for lack of subject matter jurisdiction or alternatively, failure to state a claim. Plaintiff failed to respond to the motion to dismiss, and the time to do so has expired.¹

Under D. Kan. Rule 7.4,

Absent a showing of excusable neglect, a party or attorney who fails to file a responsive brief or memorandum within the time specified in D. Kan. Rule 6.1(d) waives the right to later file such brief or memorandum. If a responsive brief or memorandum is not filed within the Rule 6.1(d) time requirements, the court will consider and decide the motion as an uncontested motion. Ordinarily, the court will grant the motion without further notice.

¹ Under D. Kan. R. 6.1(d)(2), Plaintiff’s response was due on February 9, 2022.

On February 18, 2022, this Court ordered Plaintiff to show cause in writing on or before March 4, 2022, why the Court should not consider and rule on the United States' motion to dismiss as uncontested under D. Kan. Rule 7.4 (Doc. 9). Plaintiff failed to respond to the Order to Show Cause and the time to do so has expired. As a result of Plaintiff's failure to respond, the Court grants the United States' motion to dismiss as uncontested.

IT IS THEREFORE ORDERED BY THE COURT that the United States' Motion to Dismiss (Doc. 7) is **GRANTED**. Plaintiff's claim against the United States is **dismissed without prejudice** under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Dated: March 7, 2022

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE