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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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SOPHIA STEWART,

Plaintiff,

v.

MICHAEL T. STOLLER, et al.,

Defendants.

**ORDER OF DEFAULT AS TO  
DEFENDANT JONATHAN W. LUBELL**

Case No. 2:07-cv-00552

Judge Clark Waddoups  
Magistrate Judge Evelyn J. Furse

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By a motion filed September 28, 2012 [Dkt. No. 200], Plaintiff moved the court to enter judgment of default against Defendant Jonathan W. Lubell. The motion was not opposed.

Plaintiff's motion is based on the Magistrate Judge's Order to Show Cause dated December 8, 2011 [Dkt. No. 174] inquiring as to the reason that Defendant did not appear at the Initial Pretrial Conference dated December 7, 2011. In its Order, the court also required Defendants to appear for a scheduling conference on January 11, 2012. On January 10, 2012, Defendant Lubell's wife contacted the court by telephone to request that her husband be allowed to appear at the hearing on January 11 by telephone for health reasons. This request was denied by the Magistrate Judge who also entered a Report and Recommendation concerning Defendant Lubell's failure to appear, suggesting that Defendant Lubell's Answer be stricken as a consequence. [Dkt. No. 183.] Defendant Lubell objected to the Report and Recommendation [Dkt. No. 184] outside the time limit set for doing so, upon which this court entered an Order adopting the Report and Recommendation [Dkt. No. 189] but allowing Defendant Lubell to file an Amended Answer under certain conditions. Defendant Lubell failed to file the required

motion for leave to file an Amended Answer together with an attached proposed Amended Answer. Plaintiff therefore moved for entry of default judgment against Defendant Lubell [Dkt. No. 193] and a Default Certificate was entered against Defendant Lubell by the clerk of the court on August 28, 2012 [Dkt. No. 196].

In light of the failure of the Defendant to appear as required by the court and upon the failure of the Defendant to oppose the motion for entry of a default judgment, and good cause for the motion appearing, the court hereby GRANTS THE MOTION IN PART, but DENIES the request to enter judgment in the amount requested.

It is hereby ORDERED that Defendant Jonathan W. Lubell is in default. Judgment will be entered against him upon the submission by Plaintiff of evidence to support the amount of damages to be entered in the judgment.

SO ORDERED this 4th day of December, 2012.

BY THE COURT:



Clark Waddoups  
United States District Judge