Docket #0104 Date Filed: 8/4/2023

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re: Tehum Care Services, Inc. *Debtor*	Case No.: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati *Plaintiff*, v. Sarah Tirschwell, et al., *Defendants*.	Adv. Pro. No. 23-03072 (CML)

DEFENDANT SCOTTDALE INSURANCE COMPANY'S
MOTION FOR TIME EXTENSION TO RESPOND TO COMPLAINT

Defendant Scottsdale Insurance Company ("Scottsdale") files this Motion for Extension of Time to Answer Complaint and in support thereof would respectfully show the Court as follows:

1. Plaintiff Anant Kumar Tripati ("Plaintiff") initiated this adversary proceeding against multiple defendants, including Scottsdale, on May 1, 2023. ("Plaintiff's Complaint") (Doc. No. 01.) According to the case docket, the Court issued a Summons on Scottsdale and several other defendants on May 19, 2023. (*See* Doc. 05.) However, Scottsdale was never served with the Summons or a copy of Plaintiff's Complaint pursuant to Fed. R. Civ. P. 4. (*See* Exhibit A, Declaration of Laura Allen; *see also* Docket (showing that Summons was not executed on Scottsdale)).

2. Scottsdale was made aware of this proceeding on July 24, 2023, when it received a copy of Plaintiff's "Application to the Clerk for Entry of Default Against Scottsdale Insurance

Company for Failure to Plead or Respond Otherwis[e]." (the "Application for Entry of Default")[1] (Doc. No. 72.) (*See* Exhibit A, Declaration of Laura Allen.)

3. By way of this Motion, and having received the Application for Entry of Default, Scottsdale seeks to waive service of process and respectfully requests a 60-day extension from the date of this filing to file a responsive pleading to Plaintiff's Complaint pursuant to Fed. R. Civ. P. 4(d)(3).

WHEREFORE, Defendant Scottsdale Insurance Company respectfully requests that the Court GRANT this Motion and give Scottsdale Insurance Company 60 days from the date of the filing of this Motion to respond to Plaintiff's Complaint.

Respectfully submitted,

/s/ Patrick M. Kemp

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ATTORNEY-IN-CHARGE FOR DEFENDANT SCOTTSDALE INSURANCE COMPANY

[1] *See* Scottsdale Insurance Company's Response to Plaintiff's Application for Default filed simultaneously with this Motion.

OF COUNSEL:

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served electronically via CM/ECF and mailed this the 4th day of August, 2023 to:

Anant K. Tripati 102081
ASPC Yuma, Cibola Unit
P.O. Box 8909
Yuma, AZ 85349
United States

/s/ Patrick M. Kemp
Patrick M. Kemp

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DECLARATION OF LAURA ALLEN IN SUPPORT OF SCOTTSDALE INSURANCE COMPANY'S RESPONSE TO PLAINTIFF'S APPLICATION FOR ENTRY OF DEFAULT

STATE OF ARIZONA§

COUNTY OF MARICOPA§

1. My name is Laura Allen. I am over eighteen (18) years of age and am competent to make this Declaration. The facts stated in this Declaration are based on my personal knowledge and my review of the document entitled The Application to the Clerk For Entry of Default Against Scottsdale Insurance Company ("Application for Default") with regard to the above-referenced lawsuit.

2. I am a representative in the claims department for Nationwide E&S/Specialty which oversees the claims of Scottsdale Insurance Company ("Scottsdale"), and I am familiar with the procedure pertaining to service of process of documents served on Scottsdale, which is within the normal course and scope of my duties and responsibilities.

DEFENDANT'S EXHIBIT A

3. On July 24, 2023, Scottsdale received by first-class mail the Application for Default, with respect to the above referenced lawsuit.

4. To the best of my knowledge, this was Scottsdale's first notice of a claim by Anant Kumar Tripati ("Plaintiff") which is the subject of the above-mentioned lawsuit.

5. At no time prior to receiving the Application for Default did Scottsdale have in its possession proof of service of any Summons and Complaint for the above referenced lawsuit.

6. If Scottsdale had received the Summons and Complaint, or any other documents pertaining to service of process concerning the above-mentioned lawsuit, Scottsdale would have documented receipt and made a contemporaneous record of said documents. There is no such record and Scottsdale's first notice of Plaintiff's claim is the first-class regular mail receipt of the Application for Default.

7. I submit this Declaration in support of defendant Scottsdale Insurance Company's Response to Plaintiff's Application for Entry of Default.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of August 2023.

Laura Allen
Scottsdale Insurance Company

IN THE UNITED STATES BANKRUPTCY COURT
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ORDER GRANTING DEFENDANT SCOTTSDALE INSURANCE COMPANY'S MOTION FOR TIME EXTENSION TO RESPOND TO COMPLAINT

ON THIS DAY came to be heard Defendant Scottsdale Insurance Company's Motion for Time Extension to Respond to Plaintiff's Complaint. After reviewing the Motion, the Court finds that the Motion is well taken, and should be and is GRANTED.

It is, therefore, ORDERED that Defendant Scottsdale Insurance Company is directed to file a responsive pleading to Plaintiff's Complaint no later than October 3, 2023.

SO ORDERED on this ____ day of _____, 2023.

_____
UNITED STATES DISTRICT JUDGE