

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

THE SOCIETY OF LLOYD’S,

Plaintiff,

v.

**ROBERT W. FUERST, HORD HARDIN,
HAROLD F. ILG, WALTER A. KLEIN,
MEADE M. McCAIN, JOHN J.
SHILLINGTON, CYNTHIA J.
TODOROVICH and MICHAEL B.
TODOROVICH**

Defendants.

Case No. 4:03CV1113 HEA

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF ITS MOTION FOR
ENTRY OF JUDGMENT AGAINST DEFENDANT ILG**

Introduction

On January 22, 2004, Plaintiff The Society of Lloyd’s (“Lloyd’s”) filed a Motion for Summary Judgment against all Defendants, a Statement of Undisputed Material Facts and a Brief in Support of its Motion for Summary Judgment. All parties, including Defendant Harold F. Ilg (“Ilg”), were served these documents via the Court’s electronic filing system. On March 16, 2004, the Court granted Defendants, other than Ilg (who failed to file a motion or appear in court), 30 days to respond to Lloyd’s Motion for Summary Judgment. In addition, on April 1, 2004, Ilg served Lloyd’s with his Rule 26(a) Initial Disclosures. However, Ilg has failed to respond to Lloyd’s Motion for Summary Judgment, Statement of Undisputed Material Facts and Brief in Support of its Motion. Therefore, Lloyd’s Motion for Summary Judgment should be granted against Ilg and judgment entered against him pursuant to Rule 54.

I. ILG HAS ADMITTED ALL OF LLOYD’S STATEMENTS OF UNDISPUTED MATERIAL FACTS

Ilg has admitted all of Lloyd’s Statements of Undisputed Material Facts. Federal Rule of Civil Procedure 56(e) states, in part, as follows:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party’s pleadings, but the adverse party’s response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.

In addition, Local Rule 7-4.01(E) states: “All matters set forth in the statement of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the opposing party.” Because Ilg has failed to respond and controvert any of Lloyd’s statements, all of the statements are deemed admitted. Therefore, he has also failed to “set forth specific facts showing that there is a genuine issue for trial” under Rule 56.

II. SUMMARY JUDGMENT SHOULD BE GRANTED AGAINST ILG BECAUSE HE HAS FAILED TO RESPOND TO LLOYD’S MOTION

Rule 56(e) also states that “[i]f the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.” See also, *Williams v. Anheuser-Busch, Inc.*, 45 F.3d 434, 1994 WL 717662 (8th Cir. 1994) (affirming grant of motion for summary judgment after adverse party failed to respond to the motion) (unpublished opinion). As discussed in Lloyd’s initial and reply briefs in support of its Motion for Summary Judgment, it is entitled to summary judgment in this matter.

Ilg’s proceeding as a *pro se* litigant does not allow him to ignore the federal and local rules regarding any response to Lloyd’s Motion for Summary Judgment. *Bennett v. Dr Pepper/Seven Up, Inc.*, 295 F.3d 805, 807-08 (8th Cir. 2002) (held that adverse party, acting *pro se*, was not entitled to affirmative notice of when his response was due and that “pro se status did

not entitle him to disregard the Federal Rules of Civil Procedure”). In addition, the *Bennett* court found that the adverse party “gave no indication to the court that, as an educated individual, he could not read and understand the rules governing motions for summary judgment and educate himself as to his obligations once [the other party] had filed such a motion.” *Id.* Ilg has not and cannot assert that he does not understand the rules. In fact, this is bolstered by his serving Lloyd’s his Rule 26(a) Initial Disclosures in accordance with the Court’s Case Management Order. Finally, during the initial status conference in this case, the Court “strongly urged” Ilg to retain an attorney. (See October 2, 2003, transcript at 28 and 31, attached as Ex. 1). Ilg has declined to do so and therefore, as an educated individual capable of complying with the rules, he must be held to abide by the rules.

III. JUDGMENT SHOULD BE ENTERED AGAINST ILG IN ACCORDANCE WITH RULE 54(C)

Rule 54(c) states that “[e]xcept as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party’s pleadings.” Lloyd’s Complaint attached a copy of the English Judgment in the amount of UK £242,955 against Ilg and requested that the Court recognize and enforce it. Therefore, Lloyd’s is entitled to the entry of judgment against Ilg in the amount of UK £242,955 plus the English post-judgment interest of 8% from March 11, 1998 to the present.

Respectfully submitted,

/s/ Blake T. Hannafan
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CERTIFICATE OF SERVICE

I certify that on the 14th day of May, 2004, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following: Ted F. Frapolli, Esq., 275 North Lindbergh, Suite F, St. Louis, MO 63141, Attorney for Certain Defendants; Alan C. Kohn, Esq., One US Bank Plaza, Suite 2410, St. Louis MO 63101, Attorney for Defendant Shillington and Harold F. Ilg, 100 L'Ambiance Circle, Unit 202, Naples, FL 34108 and 16401 Ranchester Drive, Chesterfield, MO 63005.

/s/ Blake T. Hannafan
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