

Dated: July 28, 2025
The following is ORDERED:



Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:

WINTER CRAIGEN,
Debtor.

Case No. 24-22321
Chapter 7

BRIAN MATTHEW GLASS,
Plaintiff.

v.

Adv. Proc. No. 24-00135

WINTER CRAIGEN, AND
COLUMBUS LIFE INSURANCE CO.,
Defendants.

ORDER DENYING PLAINTIFF'S
MOTION FOR DEFAULT JUDGMENT

This proceeding came before the Court for a hearing on July 22, 2025, at 9:30 a.m., on the Chapter 7 Trustee's ("Plaintiff's") *Motion for Default Judgment*,¹ Winter Craigen's ("Ms. Craigen's") *Response to Motion for Default*,² and Ms. Craigen's *Motion to Set Aside the*

¹ Pl.'s Mot. for Default J., ECF No. 17.

² Def.'s Resp. to Mot. for Default J., ECF No. 21.

*Default.*³ Upon review of the record, filed documents, and consideration of the parties' arguments, the Court denies the Plaintiff's Motion for Default Judgment and grants Ms. Craigen's Motion to Set Aside the Default.

I. BACKGROUND

On December 5, 2024, the Plaintiff filed the complaint seeking turnover of the cash-surrender-value of Ms. Craigen's life insurance policy.⁴ On May 9, 2025, the Plaintiff moved for entry of default.⁵ On the same day, the Clerk of Court entered the default.⁶ On June 18, 2025, the Plaintiff moved for default judgment.⁷ The motion for default judgment was scheduled for hearing with a response date of July 15, 2025.⁸

On July 22, 2025, the Court held a hearing on the Plaintiff's motion for default judgment. On the same day, Ms. Craigen filed her Response to the Motion for Default Judgment, Motion to Set Aside the Default, and Answer to the Complaint.⁹ During the hearing, Ms. Craigen explained she could not find the funds to hire an attorney for the proceeding until July 22, 2025.¹⁰ The Plaintiff argued that although Ms. Craigen could not afford counsel, it does not excuse her late

³ Def.'s Mot. to Set Aside the Default, ECF No. 22.

⁴ Compl. for Turnover, ECF No. 1.

⁵ Mot. for Entry of Default by Clerk, ECF No. 13.

⁶ Entry of Default, ECF No. 14.

⁷ Pl.'s Mot. for Default J., ECF No. 17.

⁸ Notice of Hearing, ECF No. 18.

⁹ Def.'s Resp. to Mot. for Default J., ECF No. 21; Def's Mot. to Set Aside the Default, ECF No. 22; Answer to Compl., ECF No. 23.

¹⁰ Hr'g on July 22, 2025, at 10:36 a.m.

filings.¹¹ Plaintiff contends that Ms. Craigen could have responded to the complaint or objected to the motion for default judgment without the aid of counsel.¹²

In Ms. Craigen's Motion to Set Aside the Default, she explained that Federal Rule of Civil Procedure 55(c) controls.¹³ Under Rule 55(c), the Court may set aside an entry of default for good cause.¹⁴ Citing Eleventh Circuit precedent, Ms. Craigen enumerated four factors to determine if the movant under Rule 55(c) has shown good cause:

- (1) Whether the defaulting party has acted promptly to vacate the default;
- (2) Whether the defaulting party has presented a plausible excuse explaining the reasons for the default;
- (3) Whether the defaulting party asserts a meritorious defense; and
- (4) Whether the nondefaulting party will be prejudiced by setting aside the default.¹⁵

Ms. Craigen argued all four factors weigh in her favor.¹⁶ She explained she acted promptly to vacate the default because less than 90 days had passed since the Clerk of Court entered default; she could not find the funds to hire an attorney until the hearing day; and vacating the Clerk of Court's entry of default would not prejudice the Plaintiff.¹⁷ Ms. Craigen failed to explain her meritorious defense in the Motion to Set Aside the Default.¹⁸ But during the hearing, Ms. Craigen said she would file an amended Schedule C to claim an exemption for her life insurance

¹¹ Hr'g on July 22, 2025, at 10:38 a.m.

¹² Hr'g on July 22, 2025, at 10:38 a.m.

¹³ Def.'s Mot. to Set Aside the Default, ECF No. 22.

¹⁴ *Id.*

¹⁵ *Id.* (citing *Rogers v. Allied Media (In re Rogers)*, 160 B.R. 249, 252 (Bankr. N.D. Ga. 1993)).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

policy.¹⁹ Further, in her Answer to the Complaint, she denied that the cash-surrender-value of the policy was property of the estate.²⁰

II. DISCUSSION

Federal Rule of Bankruptcy Procedure 7055 incorporates Federal Rule of Civil Procedural 55 into the Bankruptcy Rules.²¹ Under Rule 55(a), the Clerk of Court must enter a default after a “party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend” against the motion for affirmative relief.²² After the clerk enters a default, the court may set aside the default for good cause.²³ When determining whether there is good cause to set aside an entry of default, courts in the Sixth Circuit consider three factors:

- (1) Whether culpable conduct of the defendant led to the default[;]
- (2) Whether the defendant has a meritorious defense[;] and
- (3) Whether the plaintiff will be prejudiced.²⁴

The Sixth Circuit favors judgments on the merits.²⁵ Unless the moving party willfully fails to appear and plead, ““it is an abuse of discretion for a ... court to deny a Rule 55(c) motion.””²⁶

The two most important factors are whether the plaintiff will be prejudiced and whether Ms.

¹⁹ Hr’g on July 23, 2025, at 10:41 a.m.

²⁰ Def.’s Answer, ¶ 7, ECF No. 23.

²¹ Fed. R. Bankr. P. 7055 (2025).

²² Fed. R. Civ. P. 55(a) (2025).

²³ *Id.* 55(c) (2025).

²⁴ *United States v. \$ 22,050 United States Currency*, 595 F.3d 318, 324 (6th Cir. 2010) (quoting *Waiferson, Ltd. V. Classic Music Vending*, 976 F.2d 290, 292 (6th Cir. 1992) (Courts in the Sixth Circuit apply a stricter standard when vacating a default judgment under Rule 60, as opposed to an entry of default, because public policy favors judgment finality. When vacating a default judgment under Rules 55(c) and 60(b), the Court must first determine if the movant’s conduct falls under a subparagraph of Rule 60(b). Only then may it consider the other two factors. While vacating an entry of default under Rule 55(c) only requires the balancing of all three factors)).

²⁵ *Dassault Systemes, SA v. Childress*, 663 F.3d 832, 841 (6th Cir. 2011) (citing *United Coin Meter Co. v. Seaboard C. Railroad*, 705 F.2d 839, 846 (6th Cir. 1983)).

²⁶ *United States v. \$ 22,050 United States Currency*, 595 F.3d at 324 (quoting *Shepard Claims Serv., Inc. v. William Darrah & Assocs.*, 796 F.2d 190, 194 (6th Cir. 1986)).

Craigén has a meritorious defense.²⁷ Accordingly, those factors will be addressed first and then whether the defendant's culpable conduct led to the default.

First, there is no reason to believe the Plaintiff would be prejudiced from an order setting aside the clerk's entry of default. Further, during the hearing, the Plaintiff made no argument that setting aside the default entry would prejudice him.

Second, Ms. Craigén has stated a meritorious defense. To state a meritorious defense, the movant need only suggest a complete defense, the "likelihood of success is irrelevant."²⁸ If a movant fails to state a meritorious defense in the Motion to Set Aside the Default, the movant may state it in the answer to the complaint.²⁹ Ms. Craigén did not state a meritorious defense in her Motion to Set Aside the Default. But in Ms. Craigén's Answer to Complaint, she denied that the cash-surrender-value of her insurance policy was property of the estate. Further, during the hearing, she explained she would amend Schedule C to claim an exemption on the insurance policy. If Ms. Craigén is correct and can claim the cash-surrender-value as exempt, then it would not be property of the estate. Accordingly, Ms. Craigén stated a meritorious defense.

Third, Ms. Craigén was not culpable for the default. A defendant is culpable for an entry of default when she intends to "thwart judicial proceedings" or recklessly disregards how her actions may affect the judicial proceedings.³⁰ In her Motion to Set Aside the Default and during the hearing, Ms. Craigén explained she could not afford an attorney for the instant adversary proceeding until the day of the hearing. The Plaintiff argued Ms. Craigén could have answered the complaint herself. While it is true Ms. Craigén could have proceeded in the adversary

²⁷ *Id.*

²⁸ *Id.* at 326.

²⁹ *See id.*

³⁰ *Id.* at 327 (quoting *Thompson v. Am. Home Assur. Co.*, 95 F.3d 429, 433 (6th Cir. 1996)).

proceeding *pro se*, she did not intentionally thwart the judicial proceeding or recklessly disregard the judicial proceeding. Ms. Craigen did not act culpably.

III. CONCLUSION AND ORDER

For the reasons stated above, the Court finds and concludes the Plaintiff's Motion for Default Judgment should be denied and Ms. Craigen's Motion to Set Aside the Default should be granted. Accordingly, it is **ORDERED**:

1. The Plaintiff's *Motion for Default Judgment* is **DENIED**.
2. Ms. Craigen's *Motion to Set Aside the Default* is **GRANTED**.
3. A Pre-Trial Conference will be scheduled on the underlying Complaint and

Answer.

Copies to be served on:

Defendants:

Winter Craigen
417 Whiteville Ave.
Memphis, TN 38109

Columbus Life Insurance Company
Attn: CEO
400 East 4th Street
Cincinnati, OH 45202

Winter Craigen's Attorney:

Curtis D. Johnson, Jr.
Law Office of Johnson and Brown, P.C.
Suite 1002
1407 Union Avenue
Memphis, TN 38104

Plaintiff:

Brian Matthew Glass
Chapter 7 Trustee
4646 Poplar Ave.
Suite 509
Memphis, TN 38117

United States Trustee:

Paul A. Randolph
Office of The United States Trustee
200 Jefferson Avenue
Suite 400
Memphis, TN 38103