

This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: February 19, 2026



*Mina Nami Khorrami*  
Mina Nami Khorrami  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

*In re:* :  
: Case No. 25-50950  
Kenneth Furry-Mongold, : Chapter 7  
John Mongold : Judge Nami Khorrami  
*Debtor.* :

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BMI Federal Credit Union, :  
: *Plaintiff,* :  
v. : Adv. Pro No. 25-02059  
:

Kenneth Furry-Mongold, et al., :  
: *Defendants.* :  
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ORDER DENYING PLAINTIFF’S MOTION FOR DEFAULT  
JUDGMENT (DOC. 6)

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Before the Court is *Plaintiff’s Motion for Default Judgment* (Doc. 6) (the “Motion”). The Motion was filed by Plaintiff BMI Federal Credit Union (“Plaintiff”), and it seeks entry of a default

judgment against Defendant Kenneth Furry-Mongold (“Mr. Furry-Mongold”) under Rule 55(b) of the Federal Rules of Civil Procedure (the “Civil Rules”), as made applicable herein by Rule 7055 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). Because proper service upon Mr. Furry-Mongold has not yet been accomplished, the Motion is denied.

The docket indicates that Mr. Furry-Mongold was served by first-class mail at the address shown on his petition in accordance with Bankruptcy Rule 7004(b)(9). Certificate of Service 1-2, Dkt. No. 3. The docket does not indicate service upon Mr. Furry-Mongold’s bankruptcy counsel as required by Bankruptcy Rule 7004(g). Where the debtor is a defendant in an adversary proceeding, both the debtor and debtor’s counsel must be served before service upon the debtor is complete. *Hursey v. Long (In re Long)*, Nos. 24-31855, 25-03002, \_\_\_ B.R. \_\_\_, 2026 Bankr. LEXIS 261, at \*25-26 (Bankr. S.D. Ohio Jan. 27, 2026). “[T]he purpose of Bankruptcy Rule 7004(g) is to avoid the possibility that a Debtor, represented by counsel in the bankruptcy case, could be served with process in an adversary proceeding, without counsel's knowledge, setting up conditions for a default judgment if the Debtor did not respond.” *Id.* at \*25 (citation modified). Since there is no evidence that Mr. Furry-Mongold’s bankruptcy counsel was served with the summons and complaint as required by Bankruptcy Rule 7004(g), service upon Mr. Furry-Mongold is not complete and he is not in default.<sup>1</sup>

Even if proper service had been made, there are two other deficiencies in the Motion which preclude entry of a default judgment. First, the docket does not reflect entry of default by the Clerk under Civil Rule 55(a). Issuing a default judgment under Civil Rule 55(b) without a prior entry of default under Civil Rule 55(a) is “procedurally improper.” *Heard v. Caruso*, 351 F. App’x. 1, 16

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<sup>1</sup> Furthermore, to the extent that the debtor’s counsel is served with the complaint via ECF in the main case, such service is not valid under Bankruptcy Rule 7004(g). *Long*, \_\_\_ B.R. at \_\_\_; 2026 Bankr. LEXIS 261, at \*26-28.

(6th Cir. 2009); *Devlin v. Kalm*, 493 F. App'x 678, 685-86 (6th Cir. 2012); *Hood v. Jordan Rest. Grp. HQ LLC*, No. 2:22-cv-486, 2024 U.S. Dist. LEXIS 220843, at \*2-3 (S.D. Ohio Nov. 4, 2024).

Second, the declaration submitted in support of the Motion does not satisfy the requirements for default judgments imposed by the Servicemembers Civil Relief Act, 50 U.S.C. § 3931 (the “SCRA”). This Court has issued a previous opinion detailing those requirements. *Huntington Nat’l Bank v. Yount (In re Yount)*, 658 B.R. 892, 893-95 (Bankr. S.D. Ohio 2024) (collecting cases). As set forth in *Yount*, a declaration or affidavit submitted to satisfy the SCRA must (1) set forth facts, not conclusions, relating to the military service of the defendant, and (2) must detail the efforts made to determine the defendant’s military status. *Id.* at 894. Here, the declaration merely avers that “[a]fter a diligent search, BMI has found no evidence that any Defendant is in the military service of the United States of America.” Guthrie Decl. ¶ 3, Dkt. No. 6. Such conclusory allegations do not satisfy the SCRA. *Yount*, 658 B.R. at 894-95.<sup>2</sup>

Accordingly, the Motion is denied. The Plaintiff shall complete service upon Mr. Furry-Mongold **within 21 days of the date this Order is entered. In the event that service is not completed within 21 days of the entry of this Order, the Complaint may be dismissed as to Mr. Furry-Mongold without further notice or hearing.**

**IT IS SO ORDERED.**

copies to:

Maria Mariano Guthrie, attorney for Plaintiff (via ECF)

Daniel J. Bennett, attorney for Defendant Maynard’s Towing, LLC (via ECF)

Defendant Kenneth Furry-Mongold, 8550 Trail Lake Drive, Powell, Ohio 43065

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<sup>2</sup> The Department of Defense maintains a website where the military status of a defendant may be checked. *Yount*, 658 B.R. at 895 n.3.