

STATE OF MAINE  
YORK, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. RE-09-111

ROBERT F. ALMEDER and VIRGINIA )  
S. ALMEDER, et al., )

Plaintiffs )

v. )

TOWN OF KENNEBUNKPORT and )  
ALL PERSONS WHO ARE )  
UNASCERTAINED, )

Defendants )

**TMF DEFENDANTS' REQUEST FOR**  
**DEFAULT AND MOTION FOR DEFAULT**  
**JUDGMENT**

NOW COME TMF Defendants, by and through its undersigned counsel, and make a request for entry of default by the clerk and motion for default judgment to be ordered by the Court against plaintiff Mary L. Emmons as Trustee of the Emmons Family Realty Trust, pursuant to Rule 55(a) and Rule 55(b)(2) of the Maine Rules of Civil Procedure. This request and motion is based upon the pleadings filed in this matter and affidavit filed herewith and the following:

1. On August 30, 2012, this Court entered an Order for Service of Process and Service by Publication. In it the Court stated that “[t]o ensure that complete relief may be accorded to all the named parties in this case and to avoid the risk of duplicative future litigation, the court orders [the parties] to jointly serve process on each owner of beachfront property on Goose Rocks Beach...Any owner of beachfront property on Goose Rocks Beach who does not wish to join as a plaintiff shall be joined as a defendant.”

2. The TMF Defendants refiled their Answer and Counterclaims against Plaintiffs on October 27, 2010 pursuant to the Notice to Persons Who are Unascertained and to the General Public.

3. Those parties seeking to participate in this case needed to respond within the time-frame set by the summons served upon all beachfront owners.

4. On July 31, 2012, Mary L. Emmons as Trustee of the Emmons Family Realty Trust ("Ms. Emmons"), filed an Answer as to all counterclaims asserted by defendants and incorporated by reference all the answers and defenses pled by plaintiffs Robert F. Almeder, et al.

5. Ms. Emmons has failed to appear, plead or otherwise defend against the counterclaims asserted in this action by the Town of Kennebunkport, the TMF Defendants and any other Defendant in this action as required by the Maine Rules of Civil Procedure or by law.

6. Ms. Emmons is not a minor or incompetent person and to the personal knowledge of the undersigned, Ms. Emmons is not in the Military Service of the United States, as defined in the Servicemember's Civil Relief Act of 2003, (50 App USC § 511).

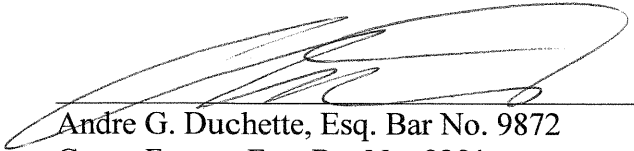
7. The Answer of Ms. Emmons is not timely pursuant to Rule 12(a) of the Maine Rules of Civil Procedure and no Motion for Leave to File a Late Answer was filed pursuant to Rule 6(b) of the Maine Rules of Civil Procedure.

8. Given that Ms. Emmons has not provided a good excuse for her untimely filing, this Court should enter Default against Ms. Emmons pursuant to Rule 55 of the Maine Rules of Civil Procedure.

WHEREFORE, the TMF Defendants respectfully requests that the Court grant this Motion for Entry of Default Judgment with Costs and Attorney's Fees and enter Final Judgment

against Mary L. Emmons as Trustee of the Emmons Family Realty Trust in the above-captioned matter.

DATED: August 8, 2012



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NOTICE OF DEFAULT

ALL MATTER IN OPPOSITION TO THIS MOTION MUST BE FILED NOT LATER THAN TWENTY-ONE (21) DAYS AFTER THE SERVICE OF THIS MOTION UPON YOU UNLESS ANOTHER TIME IS PROVIDED BY MAINE RULES OF CIVIL PROCEDURE OR SET BY THE COURT. FAILURE TO FILE TIMELY OPPOSITION WILL BE DEEMED A WAIVER OF ALL OBJECTIONS TO THIS MOTION WHICH MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING.