

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Representative ERIC SWALWELL)
174 Cannon House Office Building)
U.S. House of Representatives)
Washington, D.C. 20515,)
)
Plaintiff,)
)
v.)
)
DONALD J. TRUMP)
(in his personal capacity))
The Mar-A-Lago Club)
1100 S. Ocean Blvd.) Case No. 1:21-cv-00586-APM
Palm Beach, FL 33480,)
) JURY TRIAL DEMANDED
DONALD J. TRUMP JR.)
425 E. 58th Street)
Apt. 12 CD)
New York, NY 10022,)
)
Representative MO BROOKS)
(in his personal capacity))
2185 Rayburn House Office Building)
U.S. House of Representatives)
Washington, D.C. 20515,)
)
and)
)
RUDOLPH GIULIANI)
Rudolph W. Giuliani, PLLC)
445 Park Avenue)
18th Floor)
New York, NY 10022,)
)
Defendants.)

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANT MO BROOKS**

Plaintiff Eric Swalwell, through undersigned counsel, and pursuant to Fed. R. Civ. P. 12 and 55, moves this Court for a default judgment against Defendant Mo Brooks for his failure to timely respond to the complaint in this matter. In support of this motion, Plaintiff states as follows:

Plaintiff filed this lawsuit on March 5, 2021 (ECF Dk. No. 1). Defendants Donald J. Trump, Donald Trump Jr., and Rudolph Giuliani each agreed to waive service of the summons and complaint, and the parties agreed to a briefing schedule for these Defendants' motions to dismiss, which Defendant Giuliani filed on May 17 (ECF Dk. No. 13) and Defendants Trump and Trump Jr. filed on May 24 (ECF Dk. No. 14). Plaintiff's combined opposition to these motions currently is due by July 8 and reply briefs are due by July 22.

After some effort, Defendant Brooks was served with the summons and complaint on June 6, 2021 "at [his] dwelling or usual place of abode with someone of suitable age and discretion who resides there." Fed. R. Civ. P. 4(e)(2)(B). The affidavit of service was filed on June 8. ECF Dk. No. 18. Under the federal rules, Brooks was required to serve his response within 21 days of service of the complaint, in this case no later than June 27, 2021. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). To date, Brooks has not done so.

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Where, as here, the complaint does not allege damages in an amount certain, the moving party must apply to the Court directly for a default judgment. *See* Fed. R. Civ. P. 55(b)(2). Plaintiff does so now.

WHEREFORE, Plaintiff hereby moves this Court for a default judgment against Defendant Mo Brooks for his failure to timely respond to the summons and complaint in this matter.

Conclusion

For the foregoing reasons, Plaintiff requests that this motion be granted and the requested relief ordered.

Dated: July 1, 2021

Respectfully submitted,

/s/ Philip Andonian
CALEBANDONIAN PLLC
Philip Andonian (D.C. Bar No. 490792)
Joseph Caleb (D.C. Bar No. 495383)
1100 H Street, N.W., Ste. 315
Washington, D.C. 20005
Tel: (202) 953-9850
Email: phil@calebandonian.com
joe@calebandonian.com

/s/ Matthew Kaiser
KAISERDILLON PLLC
Matthew Kaiser (D.C. Bar No. 486272)
Sarah Fink (D.C. Bar No. 166663)
1099 Fourteenth Street, N.W., 8th Fl.
Washington, D.C. 20005
Tel: (202) 640-2850
Email: mkaiser@kaiserdillon.com
sfink@kaiserdillon.com

/s/ Barry Coburn
COBURN & GREENBAUM PLLC
Barry Coburn (D.C. Bar No. 358020)
Marc Eisenstein (D.C. Bar No. 1007208)
1710 Rhode Island Avenue, N.W., 2nd Fl.
Washington, D.C. 20036
Tel: (202) 643-9472
Email: barry@coburngreenbaum.com
marc@coburngreenbaum.com

Attorneys for Plaintiff Eric Swalwell

Certificate of Service

I hereby certify that on this 1st day of July, 2021, the foregoing Motion for Default Judgment Against Defendant Mo Brooks was served upon all parties of record by the Court's CM/ECF system.

/s/ Philip Andonian
Philip Andonian