

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

SFR SERVICES, LLC,

Plaintiff,

v.

Case No: 2:19-cv-229-FtM-29UAM

LEXINGTON INSURANCE
COMPANY,

Defendant.

ORDER

This matter comes before the Court upon review of Plaintiff's Motion for Clerk's Default Against Lexington Insurance Company. Doc. 6. Plaintiff originally filed the motion on April 3, 2019 in the Circuit Court for the Twentieth Judicial Circuit in Lee County, Florida, and the motion was entered on the docket in this Court on April 12, 2019. *See id.* Defendant removed the case to this Court and filed a response in opposition to the motion on April 12, 2019. Docs. 1, 7.

Plaintiff moved for a clerk's default in state court alleging that it filed the Complaint on January 29, 2019 and served Defendant on March 13, 2019, and Defendant failed to respond by April 2, 2019 as required under Florida law. Doc. 6 at 1. Defendant, however, timely removed the case to this Court on April 12, 2019, and under Rule 81 of the Federal Rules of Civil Procedure Defendant's response to the Complaint is due on or before April 19, 2019. *See* Doc. 7 at 1-2; Fed. R. Civ. P. 81(c)(2)(C). Thus, Plaintiff's motion will be denied without prejudice to re-filing if Defendant fails to respond to the Complaint within the time required under the Federal Rules of Civil Procedure.

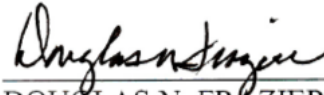
ACCORDINGLY, it is

ORDERED:

Plaintiff's Motion for Clerk's Default Against Lexington Insurance Company (Doc. 6) is

DENIED without prejudice.

DONE and ORDERED in Fort Myers, Florida on this 16th day of April, 2019.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

Copies:
Counsel of record