



1 DANIEL ARTHUR GUTENKAUF
1847 East Apache Boulevard, No. 41
2 Tempe, Arizona 85281
3 (480) 966-7018
4 dgutenkauf@getnet.net

5 Plaintiff, *in propria persona*

6 UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 DANIEL ARTHUR GUTENKAUF,
9 an unmarried man

10 Plaintiff,

11 Vs.

12 THE CITY OF TEMPE, a municipal corporation and
13 body politic, et al.:

14 Defendants.
15
16

)
)
) Civil Action No.
) 2:10-cv-02129-FJM
)
) PLAINTIFF'S AFFIDAVIT
) OF FAILURE TO PLEAD
) OR OTHERWISE DEFEND
) IN SUPPORT OF
) APPLICATION FOR
) ENTRY OF DEFAULT
)
)
)
)
)
)
)

17 AFFIDAVIT OF DANIEL ARTHUR GUTENKAUF

18 STATE OF ARIZONA)

19) ss

20 County of Maricopa)

21 Daniel Arthur Gutenkauf, being duly sworn, deposes and says:

- 22 1. I am the Plaintiff in Civil Action No. 2:10-cv-02129-FJM and I have personal
23 knowledge of the facts set forth in this affidavit, and I solemnly affirm that the facts
24 stated herein are true, correct and accurate, to the best of my ability at this time.
25 2. On October 5, 2010, the Plaintiff filed in this cause an original complaint against
Defendants Roger Vanderpool, Valerie Vanderpool, John S. Halikowski, Ruth
Halikowski, Terry Goddard, and Monica Goddard, in addition to City of Tempe
Defendants and Redflex Defendants.

3. On January 10, 2011, Plaintiff filed his First Amended Complaint.
4. Examination of the court files and record in this cause shows that Defendants Roger Vanderpool, Ruth Vanderpool, John S. Halikowski and Ruth Halikowski were served with a copy of summons, together with a copy of Plaintiff's First Amended Complaint, on Monday, January 17, 2011, as shown by Proof of Service Affidavits (Doc.37, 38 and Doc. 32, 33).
5. More than 20 days have elapsed since the date on which the Defendants were served with summons and a copy of the Complaint.
6. The deadline for each of the above name Defendants to file an answer or motion to dismiss was February 6, 2011, which fell on a Sunday.
7. Since the 20th day fell on a Sunday, the deadline for Defendants Vanderpool and Halikowski to respond is automatically moved to the next day, which was Monday, February 7, 2011.
8. Although Plaintiff had expected an answer in the mail from Defendants Vanderpool And Halikowski, there was no answer or motion to dismiss received by Plaintiff in the mail on Monday February, 7, 2011, nor any responsive pleading filed with the Court.
9. Examination of the court files and record in this cause shows that Defendants Terry Goddard and Monica Goddard were served with a copy of summons, together with a copy of Plaintiff's First Amended Complaint, on Friday, January 21, 2011, as shown by Proof of Service Affidavits (Doc.30, 31)
10. The deadline for Defendants Terry Goddard and Monica Goddard to respond to Plaintiff's summons and complaint was Thursday, February 10, 2011.
11. Plaintiff did not receive any answer or motion to dismiss from Defendants Goddard on 2-10-2011, nor any notice of said Defendants having filed of a responsive pleading.
12. The Defendants Vanderpool, Halikowski, and Goddard and their spouses have failed to answer or otherwise defend as to Plaintiff's complaint, or serve a copy of any answer or other defense that they might have had, upon Daniel Arthur Gutenkauf.
13. To the best of Plaintiff's information and belief, none of the above listed Defendants is a member of the military, and the Servicemembers Civil Relief Act does not apply.
14. This affidavit is executed by me in accordance with Rule 55(a) of the Federal Rules of Civil Procedure, for the purpose of enabling the Plaintiff to obtain an entry of default against the Defendant, for their failure to answer or otherwise defend as to the Plaintiff's complaint.
15. I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and ability at this time.

Daniel Arthur Gutenkauf

Daniel Arthur Gutenkauf, Plaintiff pro per

Subscribed and sworn before me this 11 day of February, 2011

Scott Goodenough

 Printed name, Notary Public

[Signature]

 Signature, Notary Public



CERTIFICATE OF SERVICE

I, Daniel Gutenkauf, hereby certify that copies of the foregoing were served in the following manner:

ORIGINAL and one copy of the foregoing
Filed this 11th day of February, 2011 with:

Clerk of the Court
United States District Court- District of Arizona
Sandra Day O'Connor Courthouse
401 W. Washington St.
Phoenix, AZ
85003

A copy of the foregoing mailed by U. S. Postal Service this 11th day of February, 2011 to

Nicole M. Goodwin, Attorney for Redflex Traffic Systems Defendants
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004

A copy of the foregoing mailed by U.S. Postal Service this 11th day of February 2011 to

Clarence Matherson, Jr., Assistant City Attorney for City of Tempe Defendants
Tempe City Attorney's Office
21 E. Sixth Street, Suite 201
Tempe, AZ 85281

A copy of the foregoing mailed by U.S. Postal Service this 11th day of February 2011 to

Terrence E. Harrison
Assistant Attorney General
1275 W. Washington
Phoenix, Arizona 85007-2926