

**IN THE CIRCUIT COURT OF GRANT COUNTY, WEST VIRGINIA**

**FILED**

**NOV - 6 2019**

**KEVIN W. MONGOLD and  
MISTY LYNN MONGOLD,**

**Angela B. Van Meter  
Clerk of Circuit Court**

**v.**

**CIVIL ACTION 18-C-16**

**KEITH ALLEN MONGOLD,  
DEFENDANT.**

**ORDER DENYING MOTION TO MODIFY**

This matter came before the Court, Judge James W. Courier, Jr., following a receipt of a Motion to Modify Order filed by Defendant Keith Allen Mongold. The Court hereby makes the following FINDINGS:

1. The Plaintiffs filed suit on September 6, 2018, and the Defendant received notice of the action by publication, with the Defendant being a non-resident of the State of West Virginia;
2. On October 9, 2018, the Defendant requested an extension of 30-60 days in which to file his answer to the complaint;
3. The Court granted an extension to file until November 23, 2018;
4. The Defendant indicated in a letter that he knew of the extension on November 21, 2018;
5. Despite having since early October, 2018, the Defendant still did not file an answer even with the extension of time granted by the Court;
6. Finally on December 17, 2018, the Defendant composed a letter outlining the issue with the extension and included the brief language towards the end that, "This case has no merit. My property was never offered for sale";

7. The Court presumes that the Defendant wants this language to count as a proper answer to the complaint in this case, but the Court finds this to not only be too late but also insufficient as an answer;
8. If that language is all the Defendant could come up with as an answer in approximately two and a half months since he received notice of this suit, the Court is not sure why the Defendant needed an extension of time to compose his defense;
9. After a hearing on June 13, 2019, the Court granted the Plaintiffs' Motion for Default Judgment and their requested relief.

Based on these findings, the Court makes the following CONCLUSIONS:

1. There does not appear to be any valid reason to overturn the Court's prior decision;
2. The Defendant was well aware of the law suit and failed to take action to file a proper answer to the complaint, even with an extension granted to him by the Court;
3. The Defendant was well aware that this action was pending before the Court and took no steps to properly defend the action, and the Defendant waited approximately four months after the hearing before seeking this modification.

WHEREFORE, the Court ORDERS as follows:

1. The Defendant's Motion to Modify is hereby DENIED;
2. The previous order of the Court shall remain in effect.

This is a final order which may be appealed to the West Virginia Supreme Court of Appeals within 30 days in accordance with the Rules.

The Clerk shall provide a copy of this Order to Plaintiff's attorney Duke McDaniel and to the Defendant.

DONE and ENTERED this 6<sup>th</sup> day of November, 2019.

  
JAMES W. COURRIER, JR.  
CIRCUIT COURT JUDGE