**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF LOUISIANA**

**ERNEST TAYLOR** **CIVIL ACTION**

**VERSUS**

**NO. 07-72-B-M3**

**The City of Baton Rouge, ET AL**

# FRCP RULE 55(C) MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

**NOW INTO COURT**, through undersigned counsel, come defendants, the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas who respectfully move this court to set aside the Clerk's Entry of Default entered on April 26, 2013, for the reasons set forth below:.

**1.**

Defendants, the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas have been named herein in a suit stemming from the arrest of Ernest Taylor.

**2.**

On October 22, 2013, James L. Hilburn, of the East Baton Rouge Parish Attorney's office waived service on behalf the defendants. Mr. Hilburn then abruptly retried from said position, and the matter was not assigned to new counsel.

**3.**

On April 16, 2014, plaintiff filed a motion for Preliminary Default, based on the premise that the defendants had failed to file an answer in the suit. Defendants subsequently

filed and answer on April 17, 2014.

**4.**

Defendants, the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas , move this Honorable Court for an order to set aside the Clerk's Entry of Default pursuant to FRCP Rule 55 (c) on the basis that the parties took prompt action to correct the default, the existence of a meritorious defense, the absence of prejudice, that the entry of default would produce a harsh or unfair result, and other reasons establishing good cause therefor.

**WHEREFORE**, defendants, the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas, pray that the premises considered, this FRCP Rule 55(c) Motion to Set Aside Clerk's Entry of Default be granted, the entry of default be set aside and vacated and, after due proceedings are had, plaintiff's suit be dismissed at plaintiff's cost.

**BY ATTORNEYS:**

**Mary E. Roper**
**Parish Attorney**

**/s/ Tedrick K. Knightshead**
**Tedrick K. Knightshead (#28851)**
**Special Assistant Parish Attorney**
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**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF LOUISIANA**

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**VERSUS**

**NO. 13-579-BAJ-RLB**

**THE CITY OF BATON ROUGE, ET AL**

# O R D E R

Considering defendants', the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas, FRCP Rule 55(c) Motion to Set Aside Clerk's Entry of Default:

**IT IS ORDERED** that the Clerk's entry of default against the City of Baton Rouge, Mary Roper, Carl Dabadie, Lisa Freeman, PatrickWennean and James Thomas, be set aside and vacated.

Baton Rouge, Louisiana, this _____ day of _____, 2014.

_____

**DISTRICT JUDGE**

**UNITED STATES DISTRICT COURT**

**MIDDLE DISTRICT OF LOUISIANA**

**ERNEST TAYLOR** **CIVIL ACTION**

**VERSUS**

**NO. 13-579-BAJ-RLB**

**THE CITY OF BATON ROUGE, ET AL**

## CERTIFICATE

I hereby certify that a copy of the foregoing FRCP Rule 55(c) Motion to Set Aside Clerk's Entry of Default was this date electronically filed with the Clerk of Court using the Court's CM/ECF system. Notice of this filing will be sent to Ms. Tara Johnston, **CRAWFORD LEWIS, PLLC**, Post Office Box 3656, Baton Rouge, Louisiana 70821, by operation of the Court's electronic filing system. Notice will be mailed to any party or counsel not participating in the Court's CM/ECF system by this date depositing same in the United States Mail, first class postage prepaid, and properly addressed.

Baton Rouge, Louisiana this **22th** day of **April**, 2014.

**/s/ Tedrick K. Knightshead**
**Tedrick K. Knightshead**