

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRUMBULL INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
)	vs. Case No. 4:16-CV-01139-AGF
)	
JOHN H. MALLETT, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This action is before the Court on Plaintiff Trumbull Insurance Company’s motion (ECF No. 15) for default judgment as to Defendant Kelly D. Williams, who is one of two Defendants. In this lawsuit, Plaintiff seeks a declaratory judgment that Defendants have no right to stack underinsured motorist coverage under an insurance policy covering their father, the decedent. On February 13, 2017, the Clerk of Court entered default as to Williams. The other Defendant, John H. Mallett, individually and as personal representative of the decedent’s estate, has appeared and filed an answer.

In its motion for default judgment as to Williams, Plaintiff seeks the entry of declaratory judgment in Plaintiff’s favor. Plaintiff has also moved for summary judgment against both Defendants, seeking the same relief. ECF No. 18. Therefore, the Court will deny without prejudice the motion for default judgment to avoid the possibility of inconsistent results in the case. *See Angelo Iafrate Const., LLC v. Potashnick Const., Inc.*, 370 F.3d 715, 722 (8th Cir. 2004) (“When co-defendants are similarly situated, inconsistent judgments will result if one defendant defends and prevails on the merits and

the other suffers a default judgment.”); *United Fire & Cas. Ins. Co., v. Thompson*, 1:09-CV-51 LMB, 2010 WL 561578, at *2 (E.D. Mo. Feb. 10, 2010) (denying an insurance company’s motion for default judgment without prejudice as to one defendant in a multiple-defendant case, where the claims against similarly-situated non-defaulting defendants were not yet resolved).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s motion for default judgment against Defendant Kelly D. Williams is **DENIED without prejudice**. ECF No. 15.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 25th day of July, 2017.