

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION

Brittany Wright v. A&O Enterprises, Inc.

Wright · No. 3:25-cv-00080-S · Decided November 24, 2025

SUMMARY

This report and recommendation addresses Plaintiff Brittany Wright’s motion for default judgment in a copyright infringement action against A&O Enterprises, Inc. The magistrate judge recommends denying the motion because the record does not contain a Texas Secretary of State Whitney certificate establishing service, leaving the Court without personal jurisdiction over the defendant.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Dallas Division
WRITING FOR THE COURT	Rebecca Rutherford, United States Magistrate Judge
JURISDICTION	United States District Court for the Northern District of Texas, Dallas Division
DECIDED	November 24, 2025
DOCKET	3:25-cv-00080-S
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for default judgment after the Clerk entered default against Defendant. The District Judge referred the motion to the magistrate judge for findings and a recommendation.
STANDARD OF REVIEW	A default judgment may be entered only after default and entry of default, and only if the court has personal jurisdiction over the defendant. Service of process must strictly comply with applicable law, and the record must affirmatively establish proper service.
PRECEDENTIAL VALUE	unpublished
PARTIES	Brittany Wright v. A&O Enterprises, Inc.

TOPICS

- default judgment
- personal jurisdiction
- service of process
- civil procedure
- copyright infringement

PRACTICE AREAS

civil procedure

copyright

commercial litigation

QUESTIONS PRESENTED

1. Whether the record established valid service of process on Defendant through the Texas Secretary of State.
2. Whether the Court could enter a default judgment without proof of valid service and resulting personal jurisdiction over Defendant.

HOLDINGS

1. The record did not affirmatively establish valid substituted service because it lacked the Secretary of State's Whitney certificate proving that process was served and forwarded to Defendant.
2. The Court could not enter default judgment because the record did not establish valid service and therefore did not establish personal jurisdiction over Defendant.

KEY QUOTATIONS

“Texas law requires ‘that strict compliance with the rules for service of process affirmatively appear on the record in order for a default judgment to withstand a direct attack.’”

“This certificate of service, called a Whitney certificate, ‘conclusively establishes that process was served’ and is ‘essential to establish the jurisdiction of the court over the defendants’ persons.’”

“And without proof of service, this Court lacks personal jurisdiction over Defendant and cannot enter a default judgment.”

FACTUAL BACKGROUND

Plaintiff sued Defendant for copyright infringement and alleged that Defendant was a Texas corporation whose registered agent could not be located at the registered office. After several unsuccessful service attempts, Plaintiff obtained additional time to serve Defendant and delivered process to the Texas Secretary of State. The return of service identified Minnie Barnhart, an employee of the Secretary of State, but the record did not contain the Secretary of State's certificate of service, commonly known as a Whitney certificate.

PROCEDURAL HISTORY

Plaintiff filed a copyright infringement action on January 13, 2025. Defendant did not appear or respond, and the Clerk entered default in May 2025. Plaintiff moved for default judgment on June 17, 2025. The magistrate judge recommended denial because the record did not include the Secretary of State's certificate of service establishing valid substituted service.

DISPOSITION

other

CASES CITED

- New York Life Ins. Co. v. Brown, 84 F.3d 137, 141 (5th Cir. 1996)
- Certain Underwriters at Lloyd's v. Moral Transp., LLC, 2021 WL 2598690 (N.D. Tex. June 4, 2021)
- Dan-Bunkering (Am.), Inc. v. Ichor Oil, LLC, 561 F. Supp. 3d 710, 714 (N.D. Tex. 2021)
- Thompson v. Deutsche Bank Nat'l Trust Co., 775 F.3d 298, 303 (5th Cir. 2014)
- Primate Const., Inc. v. Silver, 884 S.W.2d 151, 152 (Tex. 1994)
- Allodial Ltd. P'ship v. Susan Barilich, P.C., 184 S.W.3d 405, 408 (Tex. App.—Dallas 2006, no pet.)
- Le Nguyen v. Lopez, 582 S.W.3d 468, 471 (Tex. App.—Amarillo 2018)
- Nat'l Multiple Sclerosis Soc'y v. Rice, 29 S.W.3d 174, 176 (Tex. App.—Eastland 2000, no pet.)
- Whitney v. L & L Realty Corp., 500 S.W.2d 94, 96 (Tex. 1973)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1417 (5th Cir. 1996)

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