NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2007 CA 0240

THORLANIS JAMES

VERSUS

LEDAR TRANSPORT, AIG INSURANCE COMPANIES
AND XYZ INSURANCE CARRIERS

Judgment Rendered: NOV – 7 2007

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Appealed from the
21st Judicial District Court
In and for the Parish of Tangipahoa, Louisiana
Case No. 2003-001247

The Honorable Brenda Bedsole Ricks, Judge Presiding

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Pius A. Obioha   Counsel for Plaintiff/Appellee
Baton Rouge, Louisiana   Thorlanis James

Robert I. Siegel   Counsel for Defendant/Appellant
Daniel G. Rauh   AIG Life Insurance Company
New Orleans, Louisiana

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BEFORE: GAIDRY, MCDONALD, AND MCCLENDON, JJ.

GAIDRY, J.

This appeal arises from a default judgment rendered in the 21st Judicial District Court against an insurer. For the following reasons, we reverse.

FACTS AND PROCEDURAL HISTORY

Plaintiff, Thorlanis James, a self-employed truck driver, filed a petition for breach of contract on April 2, 2003 against Ledar Transport, AIG Insurance Companies, and XYZ Insurance Carriers. In his petition, James alleges that he injured his right knee and foot in an accident while working as a truck driver under contract with Ledar Transport, that AIG Insurance Companies issued a policy obligating it to pay any and all losses due to employment disabilities, and that AIG Insurance Companies "failed to carry out its obligations owed to [James]." James alleges that the defendants are liable *in solido* for the damages he sustained as a result of his injuries.

AIG Insurance Companies was served with the petition through the Secretary of State on April 28, 2003. No answer was filed, and on March 15, 2006, a preliminary default was entered against AIG Insurance Companies. On November 6, 2006, James appeared in court to confirm the default. James testified that he had occupational and disability insurance through AIG at the time of the accident, but that AIG did not make any payments to him as a result of his accident. James's medical records relating to the accident were filed into evidence, and James's attorney also read the policy number of the alleged AIG policy into the record. The policy itself was not introduced. Judge Brenda Bedsole Ricks rendered judgment in favor of James "as prayed for." Although his petition did not include an

amount, but rather requested damages as were reasonable under the circumstances, James's attorney prepared a judgment, making the following awards to James:

General Damages:	$410,000.00
Future Medical Expenses:	$82,000.00
Past Medical Expenses:	$12,335.00
Interest:	$181,807.20

On December 4, 2006, Judge Brenda Bedsole Ricks signed the judgment prepared by James's attorney in favor of James and against AIG Insurance Companies and Ledar Transport[1] in the amount of $686,142.20. AIG Life Insurance Company appealed from this judgment.

DISCUSSION

If a defendant fails to file an answer within the time allowed, judgment by default may be entered against him. La. C.C.P. art. 1701(A). A default judgment must be confirmed by proof of the demand sufficient to establish a prima facie case. La. C.C.P. art. 1702(A). Competent evidence sufficient to support a default judgment under an insurance policy has been held to be the policy itself. *Nelson v. Merrick*, 06-2381 (La. App. 1 Cir. 9/19/07), ___ So.2d ___. Without the alleged AIG insurance policy in evidence, James cannot establish a prima facie case against AIG; therefore, the judgment in favor of James must be reversed.

DECREE

The judgment appealed from is reversed. Costs of this appeal are assessed to plaintiff, Thorlanis James. This opinion is issued in compliance with URCA Rule 2-16.1.B.

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[1] Although the James's motion for default does not allege that Ledar Transport failed to file an answer and does not seek a default judgment against Ledar Transport, the default judgment is rendered against Ledar Transport.

REVERSED.