

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	Case No. 2:16-cv-00225
)	
v.)	Hon. Cathy Bissoon
)	
SCOTT MEDICAL HEALTH CENTER, P.C.,)	
)	
Defendant.)	
_____)	

MOTION FOR ENTRY OF DEFAULT JUDGMENT

Plaintiff U.S. Equal Employment Opportunity Commission, through its undersigned counsel, moves for entry of a default judgment against Defendant, Scott Medical Health Center, P.C., as follows:

1. Federal Rule of Civil Procedure 55 requires entry of a default judgment when a “party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend . . .” Fed. R. Civ. P. 55(a) and (b).
2. On September 13, 2017, the Court granted the motion of Defendant’s counsel, to withdraw as attorneys for Defendant. *See* ECF No. 70.
3. If a corporation is to be represented in court, this representation must be made through counsel. *See, e.g., Rowland v. California Men's Colony*, 506 U.S. 194, 201-02 (1993) (“It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel.”); *Simbrow, Inc. v. United States*, 367 F.2d 373, 373-74 (3d Cir. 1966) (“The authorities in the Federal Courts which have determined the question are uniform in holding that a corporation can do no act except through its agents and that such agents representing the corporation in Court must be attorneys at law who have been

admitted to practice, are officers of the Court and subject to its control.”) (citations omitted); *Dougherty v. Snyder*, 469 Fed. Appx. 71, 71-72 (3d Cir. 2012) (unpublished) (holding same rule applies to single-member LLC).

4. During a status conference with the Court on September 13, 2017, and prior to the Court’s ruling on the Motion to Withdraw as Attorney, counsel of record for Defendant, Charles H. Saul, represented to the Court and counsel for EEOC that Defendant did not intend to secure substitute counsel to represent it in this action. *See* ECF Nos. 69 and 70.

5. Given the statements made to the Court by then-counsel for Defendant that Defendant does not intend to secure new legal representation despite its knowledge that it cannot defend this case *pro se* and the withdrawal of defense counsel, it is clear that Defendant has no intention to defend and cannot defend against EEOC’s action. Therefore, upon notice and the expiration of the seven-day period set forth in Fed. R. Civ. P. 55(b)(2), a default judgment is appropriate. *See, e.g., SEC v. Desai*, 672 Fed. Appx. 201, 203 n.1 (3d Cir. 2016) (unpublished) (holding district court entry of default judgment not abuse of discretion given failure of corporate defendant to obtain counsel to represent it); *G6 Hospitality v. HI Hotel Group, LLC*, No. 1:11–cv–02176, 2015 WL 11605232, at *1 (M.D. Pa. May 18, 2015) (holding default judgment warranted for failure of LLC to secure counsel).

6. For purposes of a default judgment hearing conducted under Fed. R. Civ. P. 55(b)(2)(B) to determine monetary remedies to be awarded to Dale Massaro in this action, EEOC hereby withdraws its jury trial demand and consents to fact-finding by the Court.

7. A copy of this motion has been served on Defendant, through its owner and President Gary T. Hieronimus, by regular and certified mail on this day.

WHEREFORE, Plaintiff EEOC respectfully requests the Court enter a default judgment

against Defendant and set a hearing date to determine both monetary remedies (back pay, compensatory damages, punitive damages) to be awarded to Dale Massaro and appropriate injunctive relief concerning Defendant's on-going business operations.

Respectfully submitted,

By: /s/ Deborah A. Kane
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Certificate of Service

I, Deborah A. Kane, do hereby certify that I forwarded, via certified and regular United States mail, EEOC's Motion for Entry of Default Judgment and Proposed Order, on September 14, 2017, to the following:

Gary T. Hieronimus
Scott Medical Health Center, P.C.
2275 Swallow Hill Road, Building 2600
Pittsburgh, PA 15220

/s/ Deborah A. Kane
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ORDER REGARDING MOTION FOR ENTRY OF DEFAULT JUDGMENT

On this day came on to be considered Plaintiff U.S. Equal Employment Opportunity Commission's Motion for Entry of Default Judgment.

In consideration of the Motion and authorities cited therein, as well as the withdrawal of Defendant's counsel of record and defense counsel's representations made to the Court prior to withdrawal that Defendant, Scott Medical Health Center, P.C., has no intention to obtain substitute counsel to defend it in this action, it is ORDERED that Plaintiff's Motion be, and it is hereby, GRANTED.

The District Clerk is hereby directed to enter default judgment for the Plaintiff U.S. Equal Employment Opportunity Commission and against Defendant Scott Medical Health Center, P.C. in the above-styled and numbered action.

It is further ORDERED that a hearing on monetary remedies and EEOC's request for injunctive relief shall be held on _____. Thereafter, the Court will determine the remedies to be awarded in this action and direct entry of a final judgment.

Signed and entered this _____ day of September, 2017.

HONORABLE CATHY BISSOON
United States District Judge