

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

GAMMANS ARCHITECTURAL, et
al.,

Defendants.

CIVIL ACTION FILE NO.

3:05-CV-097-JTC

FINAL REPORT AND RECOMMENDATION

Pending before the court is the District Court order [Doc. 4] entered December 7, 2005, directing Defendants, corporate entities, to retain counsel and to notify the court of the name and address of counsel within twenty (20) days in accordance with Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-02 (1993); Nat'l Indep. Theatre Exhibitors, Inc. v. Buena Vista Distrib. Co., 748 F.2d 602, 609 (11th Cir. 1985). Defendants were advised that failure to comply with the order would result in the answers to complaint, which were filed *pro se*, being stricken and a default being entered against Defendants. [Doc. 4]. Defendants failed to comply with the order.

Discussion

In accordance with the District Court order, the Clerk of Court is **DIRECTED** to strike the answers to the complaint, Docs. 2 and 3. Rule 55(a) provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party’s default.” As of this date, Defendants have failed to plead or defend this law suit.

Further, as noted, Defendants are not represented by counsel in this action. “The rule is well established that a corporation is an artificial entity that can act only through agents, cannot appear *pro se*, and must be represented by counsel.” Palazzo v. Gulf Oil Corporation, 764 F.2d 1381, 1385 (11th Cir. 1985); see also Rowland, 506 U.S. at 194-95); Nat’l Satellite Sports, Inc. v. No Frills Restaurant, Inc., 15 F. Supp. 2d 1360, 1361 n. 1 (S.D. Fla. 1998). Therefore, Defendants cannot proceed *pro se* and lack legal representation to defend against the claims brought by Plaintiff. At this time, Defendants simply cannot defend this action. Because Defendants failed to comply with the District Court’s order and have failed to otherwise defend this action, entry of a default is appropriate.

Conclusion

For these reasons, the court **RECOMMENDS** that a default be entered against Defendants pursuant to Fed. R. Civ. P. 55(a). After entry of the default, Plaintiff may seek a default judgment. See Heaton v. Bonacker & Leigh, 173 F.R.D. 533, 534 (M.D. Ala. 1997). In accordance with Fed. R. Civ. P. 55(b), within twenty (20) days of entry of the default, Plaintiff may apply to the Clerk of Court for the entry of a default judgment.

The Clerk is **DIRECTED** to terminate this reference.

SO ORDERED this 6th day of January, 2006.



JANET F. KING
UNITED STATES MAGISTRATE JUDGE