

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FRITO SAINTAL, SAMIEUL VILASEAU
and EMOSIEUL SURIN,

Plaintiffs,

v.

Case No: 2:11-cv-216-FtM-38CM

JEFF PEQUENO and LIONEL
PEQUENO,

Defendants.

_____ /

ORDER¹

This matter comes before the Court on Plaintiffs' Motion for Entry of Judgment ([Doc. 20](#)) filed on February 22, 2018. Nearly six years ago, the Court found in Plaintiffs' favor against Defendants, jointly and severally, in the amount of \$33,134.72, pursuant to [Federal Rule of Civil Procedure 55\(b\)](#) and directed the Clerk to enter judgment. ([Doc. 18](#)). Instead of entering a judgment, the Clerk entered a "Clerk's Default" under [Federal Rule of Civil Procedure 55\(a\)](#). ([Doc. 19](#)). Plaintiffs now move the Court to direct the Clerk to enter final judgment *nunc pro tunc* so that it may enforce the judgment that the Court previously ordered ([Doc. 18](#)).

An error of the Clerk may be corrected pursuant to [Federal Rule of Civil Procedure 60\(a\)](#), which says the "court may correct a clerical mistake or a mistake arising from

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oversight or omission whenever one is found in a judgment, order, or other part of the record.” [Fed. R. Civ. P. 60](#). Under this rule, a district court may “correct clerical errors to reflect what was intended at the time of ruling,” but “errors that affect substantial rights of the parties . . . are beyond the scope of rule 60(a).” [Weeks v. Jones](#), 100 F.3d 124, 128 (11th Cir. 1996) (citations omitted). As discussed above, the Court clearly directed that judgment – not a clerk’s default – be entered. Because of the Clerk’s oversight and clerical error, the Court grants Plaintiffs’ motion for a *nunc pro tunc* order to correct the error.

Accordingly, it is now

ORDERED:

(1) Plaintiffs’ Motion for Entry of Judgment ([Doc. 20](#)) is **GRANTED**. The Clerk’s Default ([Doc. 19](#)) is **stricken** because of the Clerk’s error and the Clerk is **directed** to note the docket accordingly.

(2) The Clerk is **DIRECTED** to enter judgment *nunc pro tunc* in favor of Plaintiffs and against Defendants Jeff Pequeno and Lionel Pequeno, jointly and severally, in the amount of **\$33,134.72**, dated April 2, 2012.

DONE and **ORDERED** in Fort Myers, Florida this 27th day of February 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record