

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PATRICIA KENNEDY

Plaintiff,

v.

Case No.: 8:18-cv-548-T-35AAS

SPRING HILL HOTEL, LLC,

Defendant.

ORDER

Patricia Kennedy moves for an entry of clerk's default under Federal Rule of Civil Procedure 55(a). (Doc. 8). Ms. Kennedy claims Spring Hill Hotel, LLC, failed to respond to Ms. Kennedy's complaint, which she served on the defendant on March 8, 2018. (Docs. 7, 8).

Under Rule 55(a), when a defendant fails to "plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Before directing the clerk to enter a default, however, the court must determine whether the party requesting the default properly served the defendant. *United States v. Donald*, No. 3:09-CV-147-J-32HTS, 2009 WL 1810357, at *1 (M.D. Fla. June 24, 2009) (citations omitted). The requesting party's proof of service should include enough information to show that the opposing party was properly served. 10 James Wm. Moore et al., *Moore's Federal Practice*, § 4.103 (3d ed. 2017).

Here, Ms. Kennedy's proof of service fails to include enough information to show she properly served Spring Hill Hotel. Ms. Kennedy's proof of service states she served an employee of Spring Hill Hotel. (Doc. 7). Rule 4 permits service on an employee of a defendant corporation when that service complies with the state law governing serving a summons. Fed. R. Civ. P. 4(e)(1), (h)(1)(A). With respect to serving limited liability companies, Florida Statute § 48.062

permits service on an employee of the company's registered agent or an employee designated by the company to accept service. Fla. Stat. § 48.062.¹ Ms. Kennedy's proof of service fails to include information addressing why acceptance of the complaint by that particular employee constituted effective service of Spring Hill Hotel. Thus, Ms. Kennedy's proof of service is deficient.

Accordingly, Ms. Kennedy's Motion for Default (Doc. 8) is **DENIED without prejudice**. Ms. Kennedy may amend her proof of service under Federal Rule of Civil Procedure 4(l)(3).

ORDERED in Tampa, Florida on this 20th day of April, 2018.



AMANDA ARNOLD SANSONE
United States Magistrate Judge

¹ Although Spring Hill Hotel is a limited liability company (not a limited liability corporation), Rule 4(h) applies. See *Hunt v. Nationstar Mortgage, LLC*, 684 F. App'x 938 (11th Cir. 2017) (applying Rule 4(h) to a limited liability company).