

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

KENNETH CRUICKSHANK, an  
individual

Plaintiff,

v.

Case No: 2:18-cv-711-FtM-99CM

TELLUS GLOBAL, LLC, TELLUS  
BUILDING SYSTEMS, LLC, PAUL  
INGLESE, TAEOR PURVIS and  
TRUFORM BUILDING SYSTEMS,  
LLC,

Defendants.

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**ORDER**

This matter comes before the Court upon review of Plaintiff's Motion for Entry of Default filed on December 11, 2018. Doc. 23. Plaintiff moves, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, for entry of Clerk's defaults against Defendants Tellus Global, LLC, Tellus Building Systems, LLC, and Paul Inglese. *Id.* at 1. For the reasons stated below, the motion is granted.

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Similarly, Middle District of Florida Local Rule 1.07(b) provides:

When service of process has been effected but no appearance or response is made within the time and manner provided by Rule 12, Fed. R. Civ. P., the party effecting service shall promptly apply to the Clerk for entry

of default pursuant to Rule 55(a), Fed. R. Civ. P. M.D. Fla. R. 1.07(b). Prior to directing the Clerk to enter a default, the Court must first determine whether the plaintiff properly effected service of process. *United States v. Donald*, No. 3:09-cv-147-J-32HTS, 2009 WL 1810357, at \*1 (M.D. Fla. June 24, 2009).

As to an individual, the person effecting service may deliver a copy of the summons and complaint to the individual personally, or “at the individual’s dwelling or usual place of abode or with someone of suitable age and discretion who resides there.” Fed. R. Civ. P. 4(e)(2)(A),(B). With regard to a corporation, service on a corporation can be made by any manner accepted in the state or “by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process[.]” Fed. R. Civ. P. 4(h)(1)(A), (e)(1). Section 48.081, Florida Statutes, provides a hierarchy for service of process upon a corporation. A private corporation may be served by serving process on the president, vice president, or other head of the corporation, and in the absence of any such persons, on other corporate employees, including any officer or director. Fla. Stat. § 48.081(1)(a)-(d). As an alternative, process may be served on a registered agent of the corporation, or an employee of the registered agent. *Id.* § 48.081(3)(a).

Here, the Court finds service on all three Defendants sufficient. Plaintiff previously filed three returns of service related to service on Tellus Global, Tellus Building Systems, and Mr. Inglese, all completed and signed by Attorneys Subpoena Service, Inc. Docs. 14, 15, 16. The return of service related to Mr. Inglese states

that on November 9, 2018, the process server personally served Mr. Inglese with the Summons and Complaint at his residence at 14538 Indigo Lakes Circle, Naples, Florida. Doc. 14 at 1. Thus, service was properly effected on Mr. Inglese under Rule 4 of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(e)(2)(A).

The return of service for Tellus Building Systems states that on November 7, 2018, the process server served copies of the Summons and Complaint upon Paul Inglese as Tellus Building Systems' registered agent. Doc. 15 at 1. Finally, the return of service for Tellus Global states that on November 7, 2018, the process server served copies of the Summons and Complaint upon Chris Wegner of Wegner Law, PLLC, as registered agent of Tellus Global. Doc. 16 at 1. Thus, service was properly effected on Tellus Building Systems and Tellus Global under Rule 4 of the Federal Rules of Civil Procedure and § 48.081 of the Florida Statutes. *See* Fed. R. Civ. P. 4(h)(1)(A), (e)(1); Fla. Stat. § 48.081(3)(a).

ACCORDINGLY, it is

**ORDERED:**

Plaintiff's Motion for Entry of Default (Doc. 23) is **GRANTED**. The Clerk is directed to enter Clerk's default against Defendants Tellus Global, LLC, Tellus Building Systems, LLC, and Paul Inglese.

**DONE** and **ORDERED** in Fort Myers, Florida on this 13th day of December,  
2018.

  
CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record