

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

AMIE RAYMOND,

Plaintiff,

v.

Case No. 8:18-cv-1619-T-33JSS

BUFFALO CITY BAR & GRILLE, INC.
and DOREEN LEVY,

Defendants.

_____/

ORDER

This matter comes before the Court pursuant to Plaintiff's Motion for Entry of Final Default Judgment Against Defendants Buffalo City Bar & Grille, Inc. and Doreen Levy (Doc. # 18), which was filed on September 25, 2018. As explained below, the Court denies the Motion without prejudice.

Discussion

In the context of this Fair Labor Standards Act case, Raymond seeks a default judgment against her employers, Defendants Buffalo City Bar & Grille, Inc. and Doreen Levy, in the amount of \$18,873.20 (consisting of \$16,513.20 in damages and \$2,360.00 in attorney's fees). The Court has reviewed the entire file, and although Defendants failed to appear after being served, the Court cannot grant the Motion at this time.

When a plaintiff such as Raymond seeks the entry of a default judgment against an individual person, such as Levy,

the plaintiff must comply with the Servicemembers Civil Relief Act, 50 U.S.C. app. §§ 501 et seq. Specifically, pursuant to § 521 of the SCRA, the plaintiff must file an affidavit: (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to make that determination. See First Acceptance Ins. Co., Inc. v. Ramirez, No. 3:08-cv-1078, 2010 WL 724400, at *1 (M.D. Fla. Feb. 25, 2010).

Here, Raymond has not supplied the Court with the required affidavit regarding military service for Levy. The Motion for Default Judgment is accordingly denied without prejudice. In the instance that Raymond supplies the Court with the required affidavit, the Court will once again consider the Motion for Default Judgment.


Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Plaintiff's Motion for Entry of Final Default Judgment Against Defendants Buffalo City Bar & Grille, Inc. and Doreen Levy (Doc. # 18) is **DENIED WITHOUT PREJUDICE**.
- (2) In the instance that Raymond supplies the Court with the required affidavit, the Court will once again consider

the Motion for Default Judgment.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 27th
day of September, 2018.



VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE