

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

TIMOTHY TIDWELL,

Plaintiff,

v.

Case No: 2:19-cv-98-FtM-29UAM

SOUTHERN PETRO HOLDING LLC,

Defendant.

ORDER

This matter comes before the Court upon review of Plaintiff's Motion for Clerk's Entry of Default Against Defendant filed on April 8, 2019. Doc. 10. 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).

Limited liability companies may be served upon the company's registered agent, an employee of the registered agent, 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)(B);

Fla. Stat. § 48.062(1). If the address provided for the registered agent is a residence, service may be made by serving the registered agent as an individual under Florida law. Fla. Stat. § 48.062(5). Service on an individual may be made by delivering a copy of the complaint and summons to any person residing at the individual's usual place of abode who is 15 years of age or older. Fla. Stat. § 48.031(1)(a). Here, the return of service indicates that on March 12, 2019, a process server served the summons and complaint on Mohammad Jafri, the husband and co-resident of Defendant's registered agent Mahamunir Jafri, at 3630 Coral Ridge Drive, Coral Springs, Florida. Doc. 9 at 2. Thus, service was properly effected under Fla. Stat. §§ 48.062(5) and 48.031(1)(a).

Under Rule 12 of the Federal Rules of Civil Procedure, a defendant must serve an answer or otherwise respond to a complaint within 21 days of service of process. Here, Defendant has failed to do so within the time period. Therefore, the entry of Clerk's Default as to Defendant under Rule 55(a) of the Federal Rules of Civil Procedure and Middle District of Florida Local Rule 1.07(b) is appropriate.

ACCORDINGLY, it is

ORDERED:

Plaintiff's Motion for Clerk's Entry of Default Against Defendant (Doc. 10) is **GRANTED**. The Clerk is directed to enter a Clerk's Default against Defendant Southern Petro Holding LLC.

DONE and **ORDERED** in Fort Myers, Florida on this 8th day of April, 2019.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

Copies:
Counsel of record