

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RICHARD HARRIS,

Plaintiff,

v.

Case No.: 2:21-cv-646-SPC-NPM

JAMES COTTE and JOHN DOE,

Defendants.

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OPINION AND ORDER

Before the Court are Plaintiff Richard Harris's Motion to Clarify Notice of Joint Settlement Report (Doc. 179) and Defendant James Cotte's Motion for Continuance of Evidentiary Hearing (Doc. 181). The Clerk entered a default against Cotte because he failed to timely appear after being served with Harris's civil-rights complaint. (Doc. 152). The Court recently set a three-hour evidentiary hearing for November 20, 2024, on the issue of damages. (Doc. 180).

Harris filed his motion to express his unhappiness with settlement negotiations. He asks the Court to "be aware and on guard" of defense counsel's "bad faith litigation." (Doc. 179 at 2). Harris's motion does not request any actual relief, so the Court will deny it.

Cotte's motion states he needs a three-month continuance to "complete discovery, depose Plaintiff, locate and prepare all witnesses, submit a dispositive motion, secure an expert witness, and timely disclose the expert report to Plaintiff." (Doc. 181 at 4). Cotte also requests a full day for the evidentiary hearing.

The Court will grant Cotte's motion because the issue of damages appears complex, and because the Court's calendar cannot accommodate a full-day hearing on November 20, 2024. But the Court notes that by defaulting, Cotte is deemed to have admitted all well-pleaded allegations of fact in Harris's Amended Complaint. *See Tyco Fire & Sec., LLC v. Alcocer*, 218 F. App'x 860, 863 (11th Cir. 2007). Cotte may present evidence on damages, but the hearing is not an opportunity to raise defenses. *See id.* at 863-64 (identifying the types of challenges a defaulted defendant may raise); *see also Hornady v. Outokumpu Stainless USA, LLC*, 118 F.4th 1367, 1385 (11th Cir. 2024) (holding that affirmative defenses forfeited by default are excluded from the case).


Accordingly, it is now

ORDERED:

Plaintiff Richard Harris's Motion to Clarify Notice of Joint Settlement Report (Doc. 179) is **DENIED** and Defendant James Cotte's Motion for Continuance of Evidentiary Hearing (Doc. 181) is **GRANTED**. The November

20, 2024 hearing is canceled. The Court will set a new hearing date by separate order.

DONE and **ORDERED** in Fort Myers, Florida on November 5, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record