

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

**KINSALE INSURANCE
COMPANY,**

Plaintiff,

v.

Case No: 6:23-cv-1046-PGB-EJK

**SIDDHI HOSPITALITY
ORLANDO, LLC,**

Defendant.

ORDER

This cause comes before the Court on Plaintiff Kinsale's Second Application for Default Against Siddhi Hospitality Orlando, LLC (the "Motion"), filed on October 30, 2023. (Doc. 20.) Therein, Plaintiff seeks entry of a clerk's default as to Defendant Siddhi Hospitality Orlando, LLC (hereinafter "Siddhi"). (*Id.*) For the reasons set forth below, the Motion is due to be granted.

I. BACKGROUND

Plaintiff filed this action for declaratory relief against Siddhi pursuant to 28 U.S.C. § 2201, on June 5, 2023. (Doc. 1.) On August 8, 2023, Plaintiff served a copy of the summons on Ashishkumar Patel—Siddhi's registered agent— by serving Princy Patel. (Doc. 14.) On September 29, 2023, the Court denied Kinsale's first Application for Default because the Affidavit of Service did not contain any indication that Plaintiff's process server served a copy of the Complaint with the Summons, as

required by Federal Rule of Civil Procedure 4(c)(1). (Doc. 18 at 4.) On October 9, 2023, Plaintiff re-served the Summons with a copy of the Complaint on Ashishkumar Patel—Siddhi’s registered agent—by serving Patel’s spouse, Dimpleben Patel, at their residential home located at 8419 Foxworth Circle, Orlando, Florida 32819. (Doc. 19 at 1.) Plaintiff now seeks entry of a clerk’s default against Siddhi for its failure to appear in this case pursuant to Federal Rule of Civil Procedure 55(a) and Local Rule 1.10(b).

II. STANDARD

“When 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.” Fed. R. Civ. P. 55(a). Before the clerk may enter default, he or she must determine that effective service has been made on the defaulting defendant because, without effective service, there is no jurisdiction and no obligation to answer or “otherwise defend.” *See Kelly v. Florida*, 233 Fed. App’x 883, 885 (11th Cir. 2007) (unpublished).

III. DISCUSSION

Siddhi has not responded to Plaintiff’s Complaint or otherwise appeared, and the time to do so has expired. Fed. R. Civ. P. 12(a) (providing that a defendant must file a responsive pleading to a complaint within 21 days after being served a copy of the summons and the complaint). The Court must now determine whether Plaintiff perfected service on Siddhi. Under the Federal Rules of Civil Procedure, a corporate defendant may be served 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 and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant[.]

Fed. R. Civ. P. 4(h)(1)(B). A corporate defendant may also be served by “following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made[.]” Fed. R. Civ. P. 4(h)(1)(A), 4(e)(1). According to Florida law, a domestic limited liability company may be served by:

service on its registered agent designated by the domestic limited liability company . . . under chapter 605 If the address for the registered agent or any person listed publicly by the domestic limited liability company . . . on its annual report, as most recently amended, is a residence . . . service on the domestic limited liability company . . . may be made by serving . . . [t]he registered agent of the domestic limited liability company . . . in accordance with s. 48.031.

Fla. Stat. § 48.062(2), (5)(a). According to Florida Statute § 48.031:

Service of original process is made by delivering a copy of it to the person to be served with a copy of the complaint, petition, or other initial pleading or paper or by leaving the copies at his or her usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents.

Fla. Stat. § 48.031(1)(a). Based on Florida public records, Ashishkumar Patel is Siddhi’s registered agent.¹ Additionally, according to Siddhi’s most recent annual

¹ *Detail of Entity Name of Siddhi Hospitality Orlando, LLC*, Division of Corporations, an official State of Florida website,

report, filed April 26, 2023, 8419 Foxworth Circle, Orlando Florida 32819 is listed as Mr. Patel's address.² Lastly, according to Orange County, Florida public property records, 8419 Foxworth Circle, Orlando, Florida 32819 is a residential address.³ Therefore, service of process is proper on Dimpleben Patel pursuant to Florida Statutes §§ 48.06(5)(a) and 48.031(1)(a) because she is the co-resident spouse of Siddhi's registered agent, Ashishkumar Patel, and she is over the age of 15. Since Defendant was properly served on October 9, 2023, in compliance with the Federal Rules of Civil Procedure and Florida law, and more than 21 days have passed with no responsive pleading filed, default is appropriate. Fed. R. Civ. P. 12(a)(1)(A)(i).

<https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=SIDDHIHOSPITALITYORLANDO%20L210005033330&aggregateId=flal-121000503333-e74c3272-e0e9-4122-9441-da48b66df687&searchTerm=siddhi%20hospitality%20orlando%20llc&listNameOrder=SIDDHIHOSPITALITYORLANDO%20L210005033330> (last visited Oct. 31, 2023).

² 2023 Florida Limited Liability Company Annual Report, Entity Name: Siddhi Hospitality Orlando LLC, Divisions of Corporations, an official State of Florida website, <https://search.sunbiz.org/Inquiry/CorporationSearch/GetDocument?aggregateId=flal-121000503333-e74c3272-e0e9-4122-9441-da48b66df687&transactionId=121000503333-ed1e8a04-7dd8-42e3-9d5e-c33f90e38e60&formatType=PDF>. (last visited Oct. 31, 2023).

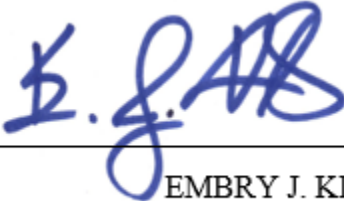
³ Property Record – 27-23-28-0569-00-120, Orange County Property Appraiser, an official County of State of Florida website, <https://prc.ocpafl.org/Searches/vabparcel.aspx/PDF/false/PID/282327056900120> (last visited Oct. 31, 2023).

IV. CONCLUSION

Accordingly, it is **ORDERED** that:

1. Plaintiff Kinsale's Second Application for Default Against Siddhi Hospitality Orlando, LLC (Doc. 20) is **GRANTED**.
2. The Clerk is **DIRECTED** to enter a default against Defendant.

DONE and **ORDERED** in Orlando, Florida on November 1, 2023.



EMBRY J. KIDD
UNITED STATES MAGISTRATE JUDGE