

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DANESH NOSHIRVAN, an
individual,

Plaintiff,

v.

Case No.: 2:23-cv-1218-JES-KCD

JENNIFER COUTURE, RALPH
GARRAMONE M.D., RALPH
GARRAMONE M.D. P.A.,
CENTRAL PARK OF
SOUTHWEST FLORIDA, LLC,
WRAITH, LLC, SULLIVAN
STREET INVESTMENTS, LLC,
HAIRPIN TURN, LLC, OMG
REALTY, LLC, R G WEIGHT
MANAGEMENT, LLC, CENTRAL
PARK SOUTH, LLC, BRANTLEE,
LLC, LEGACY OF MARIE
GARRAMONE, LLC,
GARRAMONE MARKETING,
INC., 5681 DIVISION LLC, THE
LAW OFFICE OF PATRICK
TRAINOR ESQ. LLC, PATRICK
TRAINOR and ANTI-DOXING
LEAGUE INC.,

Defendants.

_____ /

ORDER

Plaintiff moves for the entry of a clerk's default against Defendant Central Park South, LLC. (Doc. 73.) Central Park South responded in opposition. (Doc. 85.) Central Park South explains that it did not respond to

the amended complaint because it is a “name only” company with no assets, and Defendant Central Park of Southwest Florida (“SW”) was formed in its place. Central Park South asserts that its failure to answer was not willful or the product of bad faith, as it believed SW’s replacement would obviate the need to respond. (Doc. 85 at 5.)

A clerk’s default is not proper on such facts. *See, e.g., Montecalvo v. Brandon Auto Clinic, Inc.*, No. 8:07-CV-851-T-30MSS, 2007 WL 2155581, at *1 (M.D. Fla. July 26, 2007) (“The Rule does not contemplate the entry of default only upon a defendant’s failure to answer, but rather upon a defendant’s failure to respond or defend against the allegations in a complaint.”). Central Park South has appeared through counsel and conferred with Plaintiff concerning its answer. And Central Park South asserts that it has meritorious defenses that weigh against entering a clerk’s default. Because “defaults are seen with disfavor [given] the strong policy of determining cases on their merits,” *Fla. Physician’s Ins. Co., Inc. v. Ehlers*, 8 F.3d 780, 783 (11th Cir. 1993), the request for clerk’s default (Doc. 73) is **DENIED**. Central Park South, LLC must respond to the amended complaint by **June 3, 2024**.

ORDERED in Fort Myers, Florida on May 24, 2024.


Kyle C. Dudek
United States Magistrate Judge