

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

**HAMMER BRAND, LLC
d/b/a WOLF BRAND SCOOTERS,**

Plaintiff,

v.

Case No.: 8:23-cv-1272-KKM-UAM

VORO INC., et al.

Defendants.

_____ /

ORDER

Plaintiff Hammer Brand, LLC moves for entry of clerk's default against Defendant Alpha Pro Scooters. (Doc. 97).

Federal Rule of Civil Procedure 55(a), which governs the entry of default, provides that "[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." However, "[d]efault is to be used sparingly," as cases should be adjudicated on their merits. *Mitchell v. Brown & Williamson Tobacco Corp.*, 294 F.3d 1309, 1316 (11th Cir. 2002).

Hammer Brand, LLC moved for a clerk's default against Alpha Pro Scooters on December 18, 2023. (Doc. 97). However, Alpha Pro Scooters filed

an answer to the complaint on December 14, 2023. (*See* Doc. 96). Thus, the docket demonstrates that entry of a clerk's default is not appropriate.

Accordingly, it is **ORDERED**:

(1) Hammer Brand, LLC's motion for entry of clerk's default against Alpha Pro Scooter (Doc. 97) is **DENIED**.

(2) Corporate defendant Alpha Pro Scooters is put on notice that a corporation cannot represent itself and must obtain counsel admitted to practice before this court. *See Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985) ("The rule is well established that a corporation is an artificial entity that . . . cannot appear pro se and must be represented by counsel."). Corporate defendant must retain counsel, who must file a response to the complaint by **January 31, 2024**.

(3) The Clerk is **DIRECTED** to mail a copy of this order to: Joseph Ontiveros, 80 W. Bullard #105, Clovis, CA 93612.

ORDERED in Tampa, Florida on December 19, 2023.



AMANDA ARNOLD SANSONE
United States Magistrate Judge