

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

RUDOLPH BETANCOURT,

Plaintiff,

v.

Case No: 6:23-cv-1945-ACC-LHP

MELBOURNE SUITES, LLC,

Defendant

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: MOTION FOR ENTRY OF CLERK'S DEFAULT AND
SUPPORTING MEMORANDUM OF LAW (Doc. No.
13)**

FILED: January 9, 2024

**THEREON it is ORDERED that the motion is DENIED without
prejudice.**

Plaintiff seeks Clerk's default against Defendant for Defendant's failure to timely appear or respond. Doc. No. 13. Upon review, however, the return of service on which Plaintiff relies is unsigned. *See* Doc. No. 12. Therefore, the Court

cannot rely on that return of service for entry of default. *See, e.g., Accident Ins. Co., Inc. v. V&A Drywall & Stucco, Inc.*, No. 2:20-cv-407-FtM-38MRM, 2020 WL 8187782, at *3 (M.D. Fla. Sept. 1, 2020) (citing *Phan v. Accredited Home Lenders Holding Co.*, No. 3:09-cv-328-J-32HTS, 2009 WL 10670337, at *1 (M.D. Fla. June 12, 2009) (denying without prejudice motion for Clerk's default to the extent that it relied on an unsigned return of service); *Jackson Nat'l Life Ins. Co. v. Tottenham*, No. 2:16-cv-883-FtM-29MRM, 2017 WL 8310902, at *1 (M.D. Fla. June 23, 2017) (same).

Accordingly, Plaintiff's motion (Doc. No. 13) is **DENIED without prejudice** to filing a renewed motion, within **fourteen (14) days** of this Order, which must be supported by an amended, signed return of service.

DONE and ORDERED in Orlando, Florida on January 16, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties