

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JOHN E. CASABURRO,

Plaintiff,

v.

Case No: 6:24-cv-316-JSS-LHP

STEPHEN G. WEISS II and CHARLES  
HEACOCK,

Defendants

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**ORDER**

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

**MOTION: PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT  
(Doc. No. 24)**

**FILED: April 3, 2024**

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

Plaintiff moves for default judgment against Defendant "Dr. Charles Heacock, DBA 'My Eye Dr.'" Doc. No. 24. The Court construes Plaintiff's motion as a request for entry of Clerk's default under Federal Rule of Civil Procedure 55(a).

*See, e.g., Awgi, LLC v. Team Smart Move, LLC*, No. 6:12-cv-948-Orl-22DAB, 2012 WL 12904224, at \*1 (M.D. Fla. Sept. 28, 2012), *report and recommendation adopted*, 2012 WL 12904225 (M.D. Fla. Oct. 4, 2012) (citation and quotation marks omitted) (“[T]he clerk’s entry of default must precede an application for default judgment.”).

Though Plaintiff personally served Dr. Heacock with process in this matter (*see* Doc. No. 9), both Plaintiff’s complaint and the present motion inconsistently refer to both “Dr. Heacock” and to “Dr Heacock d/b/a ‘My Eye Dr.’” *See, e.g.,* Doc. No. 1, at 1 (Plaintiff’s complaint listing “Dr. Charles Heacock DBA ‘My Eye Dr.’” as a defendant in the case caption); *Id.* ¶ 3 (listing “Dr. Charles Heacock” as a defendant in a subsection of the complaint titled “The Parties”); *Id.*, at 3 (using interchangeably in “Statement of Facts” section both “Dr. Heacock” and “Dr. Heacock/‘My Eye Dr.’”); Doc. No. 24, at 1 (“The Court should enter a Default Judgment against Defendant(s), Dr. Charles Heacock, DBA ‘My Eye Dr.’”). While Dr. Heacock himself is an individual, “My Eye Dr.” appears to be a corporate entity,<sup>1</sup> and it is entirely unclear whether Plaintiff seeks relief from Dr. Heacock as an individual, from “My Eye Dr.” as a corporate entity, or both.


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<sup>1</sup> Records maintained by the Florida Department of State, Division of Corporations appear to indicate that “My Eye Dr.” is a registered corporate entity, whose registered agent is “Corporation Service Co., 1201 Hays St., Tallahassee, FL, 32301-2525.” *See* <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName/> and entering “My Eye Dr.”

This distinction is important because Florida law provides different service requirements depending on whether the defendant is an individual or a corporate entity. See Fla. Stat. § 48.031 (service of process requirements for an individual defendant); Fla. Stat. § 48.091 (service of process requirements for a business entity defendant). Because it is unclear whether Plaintiff is suing an individual, a business entity, or both, it is also unclear whether Plaintiff has sufficient effected service of process. As such, Plaintiff's construed motion for Clerk's default (Doc. No. 24) is **DENIED without prejudice**.

Within **fourteen days** from the date of this order, Plaintiff shall refile his motion for Clerk's default and explain whether Plaintiff is suing Dr. Heacock as an individual, is suing "My Eye Dr.," or both. Any refiled motion for Clerk's default must also include citations to applicable legal authority in the form of a memorandum of law that establishes Plaintiff properly served any Defendant for which Plaintiff seeks entry of Clerk's default.

**DONE and ORDERED** in Orlando, Florida on July 17, 2024.



LESLIE HOFFMAN PRICE  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record  
Unrepresented Parties