

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

HOUSTON CASUALTY COMPANY,

Plaintiff,

v.

Case No: 6:24-cv-1140-PGB-LHP

ANGELS ON EARTH PPEC, LLC and
JOYCE DURHAM,

Defendants

ORDER

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

MOTION: MOTION FOR ENTRY OF CLERK'S DEFAULT AGAINST DEFENDANT, ANGELS ON EARTH PPEC, LLC (Doc. No. 25)

FILED: October 22, 2024

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

Plaintiff seeks Clerk's default against Defendant "Angels on Earth PPEC, LLC," stating that Defendant was served on September 6, 2024, but has failed to appear or otherwise defend. Doc. Nos. 21, 25; *see* Fed. R. Civ. P. 55(a). Upon

review, however, the motion fails to comply with Local Rule 3.01(g). In addition, the motion fails to comply with Local Rule 3.01(a) by failing to include a memorandum of legal authority in support. Relatedly, the motion fails to adequately address, with citation to evidence and legal authority, that service of process was proper. *See generally United States v. Donald*, No. 3:09-cv-147-J-32HTS, 2009 WL 1810357, at *1 (M.D. Fla. June 24, 2009) (before a Clerk’s default can be entered against a defendant, the Court must determine that the defendant was properly served).

Specifically, a review of the records with Florida’s Department of State, Division of Corporations, does not reflect the existence of a registered Florida business entity by the name “Angels on Earth PPEC, LLC,” and records submitted with Plaintiff’s complaint suggest that Plaintiff intended to sue “Angels on Earth PPEC, Inc.” *See* Doc. Nos. 1-1, 1-4 (insurance records and corporate registration records referring to Angels on Earth PPEC, Inc.).¹ Presuming for purposes of this Order that Plaintiff intended to serve process on “Angels on Earth PPEC, Inc.,”

¹ Plaintiff shall explain this discrepancy in any renewed motion and/or seek leave to amend the complaint to correct this apparent scrivener’s error.

Records with Florida’s Department of State, Division of Corporations, are available at <https://search.sunbiz.org/Inquiry/CorporationSearch/ByName> by entering “Angels on Earth” in the “Entity Name” field.

records with Florida's Department of State, Division of Corporations reflect that this is an inactive corporation that was dissolved in February 2024, and Plaintiff's motion does not demonstrate, by citation to evidence or legal authority, how service on "Julia M. Erbiti as Vice President" complies with applicable law. *See* Fed. R. Civ. P. 4(h), 4(e)(1); Fla. Stat. §§ 48.081, 48.091, 48.101. The Court notes that "Julia M. Erbiti" is not reflected on an annual report for "Angels on Earth PPEC, Inc." since March 2022. *See also* Doc. No. 1-4.

Accordingly, Plaintiff's motion (Doc. No. 25) is **DENIED without prejudice**. Plaintiff shall file a renewed motion **within fourteen (14) days of this Order**, which must address the discrepancy with regard to the business entity Plaintiff is attempting to sue/serve, and must establish, by citation to evidence and legal authority, that service of process on the business entity was proper.

DONE and ORDERED in Orlando, Florida on November 1, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties