

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WINE & CANVAS DEVELOPMENT,)
LLC,)
)
Plaintiff,)

v.)

Case No. 1:11-cv-01598-TWP-DKL

THEODORE WEISSER, CHRISTOPHER)
MUYLLE, and YN CANVAS CA, LLC,)
Defendants.)

CHRISTOPHER MUYLLE,)
)
Counterclaim Plaintiff and)
Third Party Plaintiff,)

v.)

WINE & CANVAS DEVELOPMENT,)
LLC,)
)
Counterclaim Defendant, and)

DONALD McCracken, ANTHONY)
SCOTT, and TAMRA SCOTT,)
)
Third Party Defendants and Third Party)
Counterclaimants.)

ORDER ON MOTION FOR CLERK’S DEFAULT

This matter is before the Court on Plaintiff’s, Wine & Canvas Development, LLC, and Third Party Counterclaimants’, Donald McCracken, Anthony Scott, and Tamra Scott, Request for Clerk’s Entry of Default (Dkt. 131).¹ Since the motion was initially filed, several parties have been removed from this lawsuit. Thus, as the motion currently stands, Plaintiffs seek Clerk’s entry of default for Third Party Counterclaim Defendants, Theodore Weisser, YN

¹ For ease of reference, these parties will be referred to collectively as “Plaintiffs.”

Canvas CA, LLC, and Weisser Management Group, LLC (collectively, “Third Party Counterclaim Defendants”). Plaintiffs also seek Clerk’s entry of default for Defendants Weisser Management Group, LLC and YN Canvas CA, LLC.

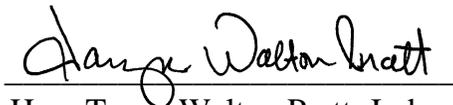
In support of the motion, Plaintiffs assert that Third Party Counterclaim Defendants have not filed an answer to the Third Party Counterclaim. Additionally, Defendants Weisser Management Group, LLC and YN Canvas CA, LLC, have not filed an answer to the Complaint. “When a party against whom a judgment 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.” Fed. R. Civ. P. 55(a). A review of the docket reveals that Plaintiffs’ assertions are correct and none of the Third Party Counterclaim Defendants have answered the Third Party Counterclaim, nor have Defendants Weisser Management Group, LLC and YN Canvas CA, LLC answered the Complaint. Moreover, YN Canvas CA, LLC and Weisser Management Group, LLC, are corporate entities without legal counsel. While 28 U.S.C. § 1654 protects an individual’s rights to plead and conduct his or her own cases personally, that right has never been extended to corporate entities. “A corporation cannot litigate in federal court *pro se*.” *Old Ben Coal Co. v. Office of Workers’ Compensation Programs*, 476 F.3d 418, 418–19 (7th Cir. 2007).

Therefore, under Federal Rule of Civil Procedure 55(a) and the rule that corporate entities cannot litigate *pro se*, the Court finds that a Clerk’s entry of default is appropriate against Third Party Counterclaim Defendants YN Canvas CA, LLC, and Weisser Management Group, LLC, as well as Defendants Weisser Management Group, LLC and YN Canvas CA, LLC. Further, because Theodore Weisser, *pro se*, has failed to plead or otherwise defend as provided by the Rules, a Clerk’s entry of default is appropriate against him individually as a Third Party Counterclaim Defendant.

Plaintiffs' Request for Clerk's Entry of Default (Dkt. 131) is **GRANTED**. The Clerk of Courts is ordered to enter default against the Third Party Counterclaim Defendants Theodore Weisser, YN Canvas CA, LLC, and Weisser Management Group, LLC, as well as Defendants Weisser Management Group, LLC and YN Canvas CA, LLC.

SO ORDERED.

Date: 11/22/2013



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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