

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Case No. 09-cv-00042-MSK

HIGHLINE CAPITAL CORP.,

Plaintiff,

v.

CMFEF PROPERTY HOLDINGS, LLC d/b/a Lakeside Inn Hope Hull, and
CALVIN FOWLER,

Defendants.

**OPINION AND ORDER ADOPTING RECOMMENDATION, GRANTING
MOTION TO STRIKE, AND ENTERING DEFAULT**

THIS MATTER comes before the Court pursuant to the March 23, 2009 Recommendation (# 17) of United States Magistrate Judge Michael E. Hegarty that the Plaintiff's Motion to Strike (# 14) the Defendants' Answer (# 12) be granted.

More than 10 days have passed since the issuance of the Recommendation, and no party has filed objections. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1). Where no party files objections to a recommendation, the Court applies whatever standard of review to that recommendation that it deems appropriate. *Summers v. State of Utah*, 927 F.2d 1165, 1167 (10th Cir.1991). This Court has reviewed the recommendation under the otherwise applicable *de novo* standard of Fed. R. Civ. P. 72(b).

Upon *de novo* review, the Court reaches the same conclusions as the Magistrate Judge did, and for essentially the same reasons. Although this Court might not necessarily agree that the requirement of Fed. R. Civ. P. 11(a) – that an unsigned pleading be “called to the [filing

party's] attention" – was satisfied by contents of the Plaintiff's Motion to Strike, this Court finds that the Magistrate Judge's Recommendation, which was served on the Defendants at their last-known address, is sufficient to apprise them of the defect in the Answer on file and their need to file a properly-signed Answer. Notwithstanding that advisement, the Defendants continue to be in violation of Fed. R. Civ. P. 11(a) several months later. Accordingly, the Court agrees that the unsigned Answer should be stricken and default entered against the Defendants.

The Court **ADOPTS** the Recommendation (# 17). The Plaintiff's Motion to Strike (# 14) is **GRANTED**, and the unsigned Answer (# 12) is **STRICKEN** pursuant to Fed. R. Civ. P. 11(a). Finding that service of process has been properly effected and there being no timely answer by the Defendants to the Amended Complaint, the Court directs the Clerk of the Court to enter the default of both Defendants pursuant to Fed. R. Civ. P. 55(a).

Dated this 10th day of August, 2009

BY THE COURT:

A handwritten signature in black ink, reading "Marcia S. Krieger", is written over a horizontal line.

Marcia S. Krieger
United States District Judge