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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 DLC Dermacare, LLC,

10 Plaintiff,

11 vs.

12 Sixta Castillo, RN, et al.,

13 Defendants.

No. CV10-0333 -PHX-DGC

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15 **ORDER**

16 On July 21, 2011, Plaintiff filed a motion for summary judgment against
17 Defendants Sixta Castillo, R.N., and Juan Castillo-Plaza, M.D. Doc. 189. *Pro se*
18 Defendants have filed no response, and the time for doing so has expired. *See* LRCiv.
19 56.1(d); Fed. R. Civ. P. 6(d). On September 26, 2011, the Court ordered *pro se*
20 Defendants to file a response no later than October 7, 2011. Doc. 197. Defendants have
21 not complied.¹

22 Rule 56 of the Federal Rules of Civil Procedure provides, in pertinent part:

23 When a motion for summary judgment is made and supported
24 as provided in this rule, an adverse party may not rest upon
25 the mere allegations or denials of the adverse party's
26 pleading, but the adverse party's response . . . must set forth
27 specific facts showing that there is a genuine issue for trial. *If*
28 *the adverse party does not so respond, summary judgment, if*
appropriate, shall be entered against the adverse party.

¹ Pursuant to Local Rule of Civil Procedure 7.2(i), "such non-compliance may be deemed a consent to the . . . granting of the motion."

1 Fed. R. Civ. P. 56(e) (emphasis added); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322-
2 23 (1986) (holding that summary judgment is appropriate against a party who “fails to
3 make a showing sufficient to establish the existence of an element essential to that party’s
4 case”); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)
5 (“When the moving party has carried its burden under Rule 56(c), its opponent must do
6 more than simply show that there is some metaphysical doubt as to the material facts.”).

7 Plaintiff’s arguments as to breach of contract and Defendants’ failure to show a
8 material factual dispute are persuasive in the absence of Defendants’ opposition.
9 Plaintiff’s other arguments are also colorable. The Court will grant Plaintiff’s motion for
10 summary judgment because the undisputed evidence offered in support of the motion
11 “show[s] that there is no genuine issue as to any material fact and that [Defendants are]
12 entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c); *see Celotex*, 477 U.S. at
13 322-23.

14 **IT IS ORDERED:**

- 15 1. Plaintiff’s motion for summary judgment against Defendants Sixta Castillo,
16 R.N. and Juan Castillo-Plaza, M.D. (Doc. 189) is **granted**.

17 Dated this 31st day of October, 2011.

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22 David G. Campbell
23 United States District Judge
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