

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

BRYAN A. FERRELL

PLAINTIFF

V.

CASE NO. 08-CV-1054

SEEDWAY, LLC, and
SIEGERS SEED COMPANY

DEFENDANTS/
THIRD PARTY PLAINTIFFS

V.

DEL SOL SEED COMPANY

THIRD PARTY DEFENDANT

ORDER

Pursuant to Federal Rule of Civil Procedure 55(b)(1), Third Party Plaintiffs Seedway, LLC (“Seedway”) and Siegers Seed Company (“Siegers”) have filed a Motion for Entry of Default Judgment in the above styled and numbered matter. (Doc. 22). Seedway and Siegers seek an order of default against Third Party Defendant Del Sol Seed Company (“Del Sol”). Del Sol has failed to file an appearance, to answer, or to otherwise plead to the Third Party Complaint against it. (Doc. 9). Del Sol has also failed to respond to the default judgment motion at issue. (Doc. 22).

The underlying case in this matter was filed by Plaintiff Bryan Ferrell against Seedway and Siegers. Ferrell claimed that he suffered losses in 2007 concerning his Jolly Elf tomato crop. It was determined that the Jolly Elf tomato seeds he bought from Seedway were actually indeterminate grape tomato seeds and not Jelly Elf tomato seeds. Siegers is the seed dealer that sold these tomato seeds to Seedway. Seedway and Siegers settled Ferrell’s claim on July 31, 2009, for the total amount of \$10,000.

On August 26, 2008, Seedway and Siegers filed a Third Party Complaint against Del Sol, the seed producer that sold the questionable Jolly Elf tomato seeds to Siegers. Seedway and Siegers claim that they are entitled to be indemnified by Del Sol for the settlement amount paid to Ferrell, which is \$10,000. Del Sol did not file an appearance, answer, or otherwise respond to the Third Party Complaint. On March 5, 2009, the Clerk of Court entered a default against Del Sol. Seedway and Siegers now move the Court to enter a default judgment against Del Sol in the amount of \$10,000.

Upon consideration, the Court finds that the Motion for Entry of Default should be and hereby is **GRANTED**. A separate judgment in favor of Seedway, LLC and Siegers Seed Company will be entered. Any motion for costs and attorney fees should be filed within fourteen (14) days of the entry of this order.

IT IS SO ORDERED, this 3rd day of February, 2010.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge