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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN KING, an individual,

CASE NO. 1:09-cv-02128-LJO-SMS

Plaintiff,

v.

ORDER STRIKING ANSWER AND
DIRECTING DEFENDANT EMERALD
ENERGY, LLC, TO RETAIN COUNSEL

EMERALD ENERGY, LLC, a Delaware
company, and RAY ALLEN, an individual,

Defendants.

(Doc. 18)

Plaintiff John King, by his attorneys Coleman & Horowitz, LLP, moved for Entry of Default Judgment against Defendant Emerald Energy, LLC. This Court reviewed the papers and determined that this matter is suitable for decision without oral argument pursuant to Local Rule 78-230(h). Having considered the case record, applicable law, and all written materials submitted, this Court strikes Defendant Emerald Energy’s prior “answer,” and orders Emerald Energy to retain counsel and file its answer within fourteen days of this order. The Court admonishes Emerald Energy that, if it fails to secure counsel and file an appearance, this Court will recommend that the District Judge enter default judgment against it.

II. Background

On December 7, 2009, Plaintiff filed a complaint against Defendants, alleging breach of contract arising from Defendants’ failure to pay certain promissory notes (Doc. 2). On January 7, 2010, Emerald Energy was served by personal service on its agent for service of process,

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1 Defendant Ray Allen (Doc. 7). Allen answered individually and as president of Emerald Energy
2 on January 28, 2010 (Doc. 9).

3 Emerald Energy failed to retain counsel as required by Local Rule 83-183. Plaintiff
4 repeatedly advised Emerald Energy of the need to retain counsel, but did not formally raise the
5 issue with this Court. Because Emerald Energy failed to retain counsel, Plaintiff moved for
6 default judgment against it on May 17, 2010 (Doc.18). Defendant Emerald Energy has neither
7 responded nor secured counsel to represent it in this action.

8 **II. Discussion**

9 Defendant Emerald Energy is required to retain counsel. A “corporation may appear in
10 the federal courts only through licensed counsel.” *Rowland v. California Men’s Colony*, 506
11 U.S. 194, 202 (1993). *See also D-Beam Limited Partnership v. Roller Derby Skates, Inc.*, 366
12 F.3d 972, 973-74 (9th Cir. 2004) (“It is a longstanding rule that [c]orporations and other
13 unincorporated associations must appear in court through an attorney.” (*Internal citation and*
14 *quotation marks omitted.*)). Parties must plead and conduct their cases personally or through
15 counsel as the rules of the courts provide. 28 U.S.C. § 1654. Local Rule 83-183, governing
16 parties appearing *in propria persona*, provides, in pertinent part:

17 Any individual representing himself or herself without an attorney is bound by the
18 Federal Rules of Civil or Criminal Procedure and by these Local Rules. All
19 obligations placed on “counsel” by these Local Rules apply to individuals
20 appearing *in propria persona*. Failure to comply therewith may be ground for
dismissal, judgment by default, or any other sanction appropriate under these
rules. A corporation or other entity may appear only by an attorney.

21 A president and sole shareholder may not represent a corporation in court but must retain
22 appropriate licensed counsel. *United States v. High Country Broadcasting Co., Inc.*, 3 F.3d
23 1244, 1245 (9th Cir. 1993), *cert. denied*, 513 U.S. 826 (1994). Accordingly, Allen may not
24 represent Emerald Energy as its president and sole shareholder.

25 **III. Conclusion and Order**

26 Because Plaintiff informally advised Emerald Energy of its need to retain counsel but
27 took no formal action until moving for default judgment, this Court declines to recommend the
28 entry of default judgment at this time. Instead, this Court hereby ORDERS:

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1. Defendants' joint answer, filed January 28, 2010 (Doc. 9), is hereby struck with regard to Defendant Emerald Energy only.
2. Defendant Emerald Energy shall secure representation of licensed counsel and shall appear in this action through counsel no later than fourteen days from the date of this Order.
3. If Defendant Emerald Energy fails to secure representation of licensed counsel and to appear in this action through that counsel within fourteen days of this Order, this Court shall recommend that the District Court enter default judgment against Defendant Emerald Energy.

IT IS SO ORDERED.

Dated: July 1, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE