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\*\*E-Filed 5/5/2009\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

ANWAR PEREZ ROJAS,

Plaintiff,

v.

HAWGS SEAFOOD BAR, INC., STEVEN  
HARDIN, and DOES 1-10,

Defendants.

Case Number C 08-03819 JF (PVT)

**ORDER<sup>1</sup> GRANTING MOTION TO  
STRIKE**

Re: Docket No. 9

**I. BACKGROUND**

On August 11, 2008, Plaintiff Anwar Perez Rojas (“Rojas”) filed the instant action against Defendants Hawgs Seafood Bar, Inc. (“Hawgs Seafood Bar”) and Steve Hardin (“Hardin”), alleging violation of the Fair Labor Standards Act and the California Wage Orders and statutes. On September 25, 2008, Hardin, appearing *pro se*, filed an answer on behalf of himself and Hawgs Seafood Bar. On March 6, 2009, Rojas filed the instant motion to strike the answer filed on behalf of Hawgs Seafood Bar and seeks default judgment against it.<sup>2</sup> The motion is unopposed.

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<sup>1</sup>This disposition is not designated for publication in the official reports

<sup>2</sup>While Rojas’ motion is titled “Motion to Strike Defendant Hawgs Seafood Bar Inc.’s Answer”, the motion also seeks a default judgment. See Pl.’s Mot. At 2:7-9 (“As such, the Courts should grant Plaintiff’s motion to strike the Answer field [sic] on behalf of Hawgs Seafood Bar Inc., and enter a default against it.”).

1 **II. DISCUSSION**

2 “It is a longstanding rule that “[c]orporations and other unincorporated associations must  
3 appear in court through an attorney.” *D-Beam Ltd. Partnership v. Roller Derby Skates, Inc.*, 366  
4 F.3d 972, 973-74 (9th Cir. 2004)(citing *Licht v. Am. W. Airlines (In re Am. W. Airlines)*, 40 F.3d  
5 1058, 1059 (9th Cir.1994)). Hardin is not an attorney, therefore his appearance on behalf of  
6 Hawgs Seafood Bar is invalid and the answer he filed on behalf of Hawgs Seafood Bar will be  
7 stricken.

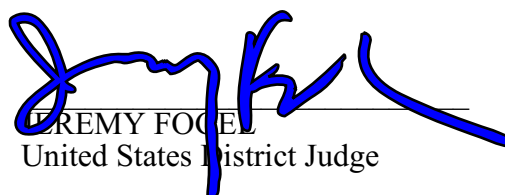
8 When a corporation fails to retain counsel to represent it in an action, its answer may be  
9 stricken and a default judgment entered against it. *See Employee Painters' Trust v. Ethan*  
10 *Enterprises, Inc.*, 480 F.3d 993 (9th Cir. 2007). However, “[c]ourts may freely grant leave when  
11 justice so requires, and public policy strongly encourages courts to permit amendments.”  
12 *Waldrip v. Hall*, 548 F.3d 729, 732 (9th Cir. 2008) (internal citation omitted). Rojas has not  
13 demonstrated that he will suffer any prejudice if Hawgs Seafood Bar is granted a brief period of  
14 time to file a proper answer. Therefore, Rojas’ default judgment request will be denied without  
15 prejudice.

16 **III. ORDER**

17 For the reasons discussed above, the motion to strike is GRANTED. Hawgs Seafood Bar  
18 shall file a proper answer within twenty (20) days of this order or default judgment will be  
19 entered against it.

20  
21 **IT IS SO ORDERED.**

22  
23 DATED: 5/4/09

24   
25 JEREMY FOCCELL  
26 United States District Judge  
27  
28

1 This Order was served on the following persons:

2 Adam Wang adamqwang@gmail.com, alpedersen@gmail.com, rosilenda@gmail.com

3 Hawgs Seafood Bar, Inc.  
4 1700 West Campbell Avenue  
Campbell, CA 95008

5 Steven Hardin  
6 1700 West Campbell Avenue  
Campbell, CA 95008

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