

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Zita L. Weinshienk

Civil Action No. 06-cv-01522-ZLW-BNB

C. WILLIAM RASURE, JR.,

Plaintiff,

v.

DOUGLAS R. SITTER,
MICHAEL E. McLACHLAN,
ARTHUR C. CHASE, JR., and
BANK OF THE SAN JUANS,

Defendants,

and

BANK OF THE SAN JUANS,

Counterclaimant,

v.

C. WILLIAM RASURE, JR., and
LAW OFFICES OF C. WILLIAM RASURE, JR., P.C.,

Counterclaim-Defendants.

ORDER

Magistrate Judge Boyd N. Boland stated in an Order dated September 13, 2007, that the Court had been informed that C. William Rasure, Jr. (Mr. Rasure) had been suspended from the practice of law effective September 24, 2007. Mr. Rasure

had been representing the Law Offices of C. William Rasure, Jr., P.C. in this matter in addition to representing himself pro se. However, a corporation is required by law to be represented by counsel.¹ Accordingly, Magistrate Judge Boland ordered that on or before October 5, 2007, the Law Offices of C. William Rasure, Jr., P.C. must obtain new counsel, and that absent an appearance of new counsel, pleadings, motions, and other papers may be stricken, and default judgment may be entered against the Law Offices of C. William C. Rasure, Jr., P.C. No entry of appearance or statement by Mr. Rasure was filed in response to the September 13, 2007, Order.

On September 25, 2007, the Colorado Supreme Court stayed Mr. Rasure's suspension for one year and one day effective September 24, 2007. Although the Clerk of Court received a copy of the stay order from the Colorado Supreme Court on September 26, 2007, due to a clerical problem, the undersigned Judge was not made aware of the stay order until several weeks after it was issued.

On October 17, 2007, the Court directed the Clerk of Court to enter default against the Law Offices of C. William Rasure, Jr., P.C. pursuant to Fed. R. Civ. P. 55(a). The Clerk of Court did so on October 18, 2007. On October 24, 2007, Mr. Rasure was removed from the Roll of Attorneys of this Court.² Thereafter, on

¹See Flora Const. Co. v. Fireman's Fund Ins. Co., 307 F.2d 413, 413-14 (10th Cir. 1962); see also D.C.COLO.LCivR 83.3D.

²Disciplinary proceedings in this Court are confidential pursuant to D.C.COLO.LCivR 83.5C, and thus the Court does not disclose herein the reason for Mr. Rasure's removal from the Roll of Attorneys.

December 4, 2007, the Colorado Supreme Court ordered that Mr. Rasure be suspended from the practice of law in the State of Colorado, effective immediately.

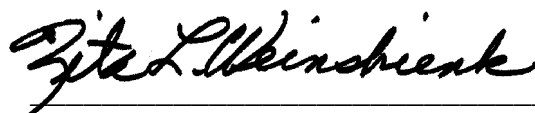
Thus, the October 18, 2007, default was entered by the Clerk of Court, at the Court's direction, during a period in which Mr. Rasure in fact was able to practice law in this Court. Entry of default therefore was erroneous at that time. Nonetheless, the failure of the Law Offices of C. William Rasure, Jr., P.C. to retain counsel *since* October 24, 2007, despite the Court's warnings, justifies entry of default under Fed. R. Civ. P. 55(a), because it constitutes a failure to "otherwise defend" in this action. Out of an abundance of caution and to clarify the record in this case, it is

ORDERED that the Entry of Default filed October 18, 2007 (Doc. No. 205) is vacated. It is

FURTHER ORDERED that the Clerk of the Court hereby is directed to enter a new default against the Law Offices of C. William Rasure, Jr., P.C. pursuant to Fed. R. Civ. P. 55(a). The Court thereafter will consider the Bank of the San Juans' pending motion for default judgment (Doc. No. 225).

DATED at Denver, Colorado, this 7 day of February, 2008.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court