

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Senior Judge Wiley Y. Daniel**

Civil Action No. 15-cv-00348-WYD-KLM

CUPID CHARITIES, INC.,

Plaintiff,

v.

The DEW, LLC,

Defendant.

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**ORDER ADOPTING AND AFFIRMING RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

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THIS MATTER is before the Court on the Recommendation of United States Magistrate Judge ("Recommendation"), filed September 3, 2015. (ECF No. 35). In the Recommendation, Magistrate Judge Mix recommends that her previous Order to Show Cause (ECF No. 34) be made absolute and (1) that default and default judgment be entered against Defendant Dew based on failure to comply with Court Orders and its lack of counsel in this case; and (2) that the counterclaims against Plaintiff be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute, for failure to comply with Court Orders, and for lack of counsel. (Recommendation at 2-3). The Recommendation is incorporated herein by reference. See 28 U.S.C. § 36(b)(1)(B), Fed. R. Civ. P. 72(b).

Under Fed. R. Civ. P. 72, written objections are due within fourteen (14) days after service of a copy of the Recommendation. Here, no objections were filed to the Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*,

927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."<sup>1</sup> See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Mix's Recommendation is thorough, well-reasoned and sound. I agree with Magistrate Judge Mix that that default and default judgment should be entered against Defendant Dew and that the counterclaims against Plaintiff should be dismissed pursuant to Fed. R. Civ. P. 41(b).

Based on the foregoing, it is

ORDERED that the Recommendation of United States Magistrate Judge Mix (ECF No. 35) is **AFFIRMED** and **ADOPTED**. In accordance therewith, it is

ORDERED that the Order to Show Cause (ECF No. 34) is **MADE ABSOLUTE**. Accordingly, default and default judgment shall enter against Defendant Dew based on failure to comply with Court Orders and its lack of counsel in this case. Additionally, the counterclaims against Plaintiff are **DISMISSED** pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute, for failure to comply with Court Orders, and for lack of

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<sup>1</sup> Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review, Fed. R. Civ. P. 72(b).

counsel.

Dated: September 22, 2015

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Senior United States District Judge