

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

**JAVIER T. SEBASTIAN on behalf of
himself and all others similarly situated,**

Plaintiff,

-vs-

Case No. 2:10-cv-12-FtM-29DNF

**ALLEGRO GROUP OF SWFL, INC. a
Florida Profit Corporation,**

Defendant.

REPORT AND RECOMMENDATION

TO THE UNITED STATES DISTRICT COURT

The Plaintiff, Javier T. Sebastian filed a Complaint (Doc. 1) on January 11, 2010. Mr. Sebastian alleges claims under the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, the Florida Constitution, and a claim for breach of contract. On July 27, 2010, the Court entered an Order (Doc. 19) which allowed counsel for Allegro Group of SWFL, Inc. to withdraw and gave the Defendant twenty-one (21) days in which to retain new counsel. On August 16, 2010, the Court entered an Order (Doc. 20) allowing the Defendant until September 15, 2010 to retain counsel and have counsel file a notice of appearance. On September 16, 2010, the Court entered another Order (Doc. 22) which gave the Defendant an additional fifteen (15) days in which to retain counsel. On October 13, 2010, the Court entered an Order to Show Cause (Doc. 23) which required the Defendant to retain counsel and to show good cause why a default should not be entered against it for failing to retain counsel and comply with prior Orders. The Defendant failed to respond to the Order to Show Cause. On

November 3, 2010, the Plaintiff filed a Motion for Default (Doc. 24) requesting that a default be entered against the Defendant for failing to respond to the Order to Show Cause. The Defendant failed to respond to the Motion for Default, however, the Court notes that the Motion for Default (Doc. 24) was not served on the Defendant. Counsel has not made an appearance on behalf of the Defendant.

The Defendant, Allegro Group of SWFL, Inc. is a corporation. Pursuant to Local Rule 2.03(e), “a corporation may appear and be heard only through counsel admitted to practice in the Court pursuant to Rule 2.01 or Rule 2.01.” The Defendant has failed to retain counsel to represent it and failed to comply with Orders requiring it to retain counsel.

IT IS RESPECTFULLY RECOMMENDED:

That the Motion for Default (Doc. 24) be granted and a default be entered against the Defendant, Allegro Group of SWFL, Inc. for failing to retain counsel to represent it and for failing to comply with Orders of this Court.

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen (14) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

Respectfully recommended in Chambers in Ft. Myers, Florida this 23rd day of November, 2010.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record