

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LUKE GLADYS, an individual

Plaintiff,

v.

Case No: 2:15-cv-282-FtM-38CM

GULF COAST VILLAGE HOME
HEALTH, INC.,

Defendant.

ORDER

Before the Court is Defendant's Unopposed Motion to Set Aside Clerk's Default and Supporting Memorandum of Law (Doc. 12) filed on September 22, 2015. Defendant seeks to set aside the entry of a Clerk's Default (Doc. 11) entered on August 27, 2015. Defendant states that it failed to file a timely response to Plaintiff's Complaint, which alleges three counts of racial discrimination, because of a misunderstanding with ADP Total Source, a Professional Employer Organization responsible for providing assistance to Defendant in an underlying administrative matter filed by Plaintiff with the Equal Employment Opportunity Commission.

Here, upon service of the Summons and Complaint, Defendant contacted ADP Total Source to discuss a response to the Complaint. ADP Total Source communicated to Defendant that it was "handling the matter" and would "take care of any necessary response." While Defendant understood "the matter" to mean the current lawsuit, ADP Total Source was referring to the underlying administrative matter.

Upon being informed of the entry of Clerk's default, Defendant learned of its misunderstanding with ADP Total Source and expeditiously took steps to retain counsel and remedy the mistake. Pursuant to Rule 55(c) of the Federal Rules of Civil Procedure, the Court finds that Defendant has shown good cause to set aside the entry of Clerk's Default and the Motion is due to be granted.

ACCORDINGLY, it is hereby

ORDERED:

1. Defendant's Unopposed Motion to Set Aside Clerk's Default and Supporting Memorandum of Law (Doc. 12) is **GRANTED**.
2. Clerk's Entry of Default (Doc. 11) entered on August 27, 2015 is hereby **VACATED** and **SET ASIDE**.
3. Defendant's Answer and Statement of Defenses to Plaintiff's Complaint (Doc. 13) filed on September 22, 2015 is deemed filed as of today's date.

DONE and **ORDERED** in Fort Myers, Florida on this 6th day of October, 2015.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record