

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JAMES MUTKA, an individual

Plaintiff,

v.

Case No: 2:18-cv-539-FtM-38MRM

TOP HAT IMPORTS, LLC,

Defendant.

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**OPINION AND ORDER**<sup>1</sup>

Before the Court is Plaintiff James Mutka's Response to the Court's Order to Show Cause. ([Doc. 10](#)). Last week, the Court ordered Mutka to show cause why it should not dismiss his case for failure to move for a default judgment after Defendant Top Hat Imports, LLC's time to respond to the Complaint expired. (Doc. 9). Mutka now explains that his attorney was in an emergency state court hearing and was giving Top Hat's potential attorney the professional courtesy to appear and defend this case. Based on Mutka's explanation, the Court finds that he is not showing a lack of interest in prosecuting the case. This case, however, cannot sit idle. The Court thus directs Mutka to move for a clerk's default on or before October 30, 2018, if Top Hat does not respond to the Complaint by that date.

Accordingly, it is now

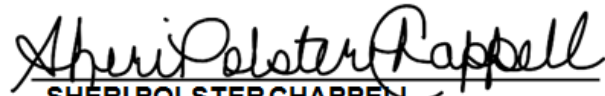
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**ORDERED:**

- (1) The Court will take no further action on its Order dated October 10, 2018 (Doc. 9).
- (2) Plaintiff James Mutka must move for a clerk's default on or before **October 30, 2018**, if Defendant Top Hat Imports, LLC has not yet responded to the Complaint. **Failure to do so may result in the Court closing the case without further notice.**

**DONE** and **ORDERED** in Fort Myers, Florida this 16th day of October 2018.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record