

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

ALCHEMY-SPETEC LLC,

Plaintiff,

v.

Case No. 2:19-cv-670-FtM-66NPM

THE PUMP AND SPRAY COMPANY  
CORPORATION and RYAN WENZEL

Defendants.

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**ORDER**

Before the Court is Plaintiff's Corrected Motion for Clerk's Entry of Default (Doc. 38). Plaintiff Alchemy-Spetec, LLC requests the Court enter a default against Defendants The Pump and Spray Company Corporation and Ryan Wenzel. (*Id.*, p. 1). No response was filed to the motion and the response time has lapsed. For the reasons discussed below, the Court grants the motion.

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Before directing the clerk to enter a default, however, the Court must determine whether Plaintiff properly effected service of process, for which Plaintiff bears the burden of proof. Fed. R. Civ. P. 4(l); *Chambers v. Halsted Fin. Servs., LLC*, No. 2:13-CV-809-FTM-38, 2014 WL 3721209, \*1 (M.D. Fla. July 28, 2014); *Zamperla, Inc. v. S.B.F. S.R.L.*, No. 6:13-CV-1811-ORL-37, 2014 WL 1400641, \*1 (M.D. Fla. Apr. 10, 2014).

For Defendant Ryan Wenzel, the Federal Rules of Civil Procedure allow for personal service upon an individual within a judicial district of the United States. Fed. R. Civ. P. 4(e)(2)(A). The process server may deliver a copy of the summons and complaint to the individual personally. *Id.* Here, on July 18, 2020, the process server served Ryan Wenzel personally. (Doc. 36). Therefore, service of process was properly effected under Rule 4(e)(2).

Pursuant to Rule 4(h)(1)(B), an entity defendant may be served by any manner authorized in the state or “by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process ....” *Chambers*, 2014 WL 3721209, at \*1 (M.D. Fla. July 28, 2014). Likewise, under state law, a corporation may be served through its registered agent. Fla. Stat. § 48.081(3)(a). Here, the process server served Pump and Spray by serving Ryan Wenzel, who is designated by law to accept service on behalf of the corporation. (Doc. 37). Thus, the Court finds Plaintiff properly effected service of process on Pump and Spray.

Both Ryan Wenzel and Pump and Spray have failed to timely answer the Amended Complaint (Doc. 23) or otherwise defend this action. Therefore, the Court finds a clerk’s default must be entered pursuant to Rule 55(a).

Accordingly, it is hereby **ORDERED**:

- (1) The Corrected Motion for Clerk’s Entry of Default (Doc. 38) is **GRANTED**.
- (2) The Clerk is directed to enter a default against The Pump and Spray Company Corporation and Ryan Wenzel.

**DONE** and **ORDERED** in Fort Myers, Florida on September 9, 2020.

  
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NICHOLAS P. MIZELL  
UNITED STATES MAGISTRATE JUDGE