

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

HOLDING COMPANY OF THE
VILLAGES, INC.,

Plaintiff,

v.

Case No: 5:17-cv-188-Oc-30PRL

WILLIAM MICHAEL HAMMESFAHR
d/b/a/ THE VILLAGES NEUROLOGY,
and STROKE AND BRAIN
SPECIALISTS, LLC,

Defendants.

ORDER

THIS CAUSE comes before the Court on Defendants' Construed Motion for Extension of Time (Docs. 11 and 12). Having reviewed the Motion, the Court concludes it should be granted in part, as explained below.

DISCUSSION

Plaintiff brought this action against Defendants Stroke and Brain Specialists, LLC and William Hammesfahr d/b/a The Villages Neurology for trademark infringement, false designation and advertising, trademark dilution, and violation of the Anti-Cybersquatting Consumer Protection Act. (Doc. 9). Defendant Hammesfahr, *pro se* on behalf of both Defendants, filed a joint "answer" (Doc. 12), which is really just a request for extension of time to respond to the Amended Complaint and find counsel.

While Hammesfahr is entitled to move *pro se* for an extension on behalf of himself, Stroke and Brain Specialists, LLC cannot. That is because LLCs cannot proceed *pro se* (*i.e.*, without counsel). *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985); *Energy Lighting Mgmt., LLC v. Kinder*, 363 F.Supp.2d 1331, 1332 (M.D.Fla.2005); *FTC v. RCA Credit Servs., LLC*, 2010 WL 2927688, at *1 n. 4 (M.D.Fla. July 21, 2010). As such, the Court can only grant the request for Hammesfahr individually, and not for Stroke and Brain Specialist, LLC. That said, the Court will give Stroke and Brain Specialist, LLC an additional amount of time to obtain counsel to represent it in this matter. If it does not obtain counsel, the Court will enter a default judgment against it.

The Court also notes that the Construed Motion for Extension of Time is defective because it does not contain the required certification. Pursuant to Middle District of Florida Local Rule 3.01(g):¹

Before filing any motion in a civil case, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, or to involuntarily dismiss an action, the moving party shall confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion, and shall file with the motion a statement (1) certifying that the moving counsel has conferred with opposing counsel and (2) stating whether counsel agree on the resolution of the motion. A certification to the effect that opposing counsel was unavailable for a conference before filing a motion is insufficient to satisfy the parties' obligation to confer. The moving party retains the duty to contact opposing counsel expeditiously after filing and to supplement the motion promptly with a statement certifying whether or to what extent the parties have resolved the issue(s) presented in the motion. If the interested parties agree to all or part of the relief sought in any motion, the caption of the motion

¹ A copy of the Local Rules can be downloaded at <http://www.flmd.circ11.dcn/Forms-Policies/admin/USDC-MDFL-LocalRules12-2009.pdf>.

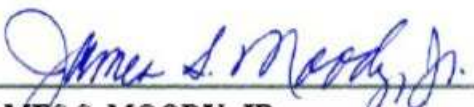
shall include the word “unopposed,” “agreed,” or “stipulated” or otherwise succinctly inform the reader that, as to all or part of the requested relief, no opposition exists.

In the event Hammesfahr intends to represent himself in this matter, he will need to comply with this Local Rule—and all the applicable rules—moving forward.

Accordingly, it is ORDERED AND ADJUDGED that:

1. Defendants’ Construed Motion for Extension of Time (Docs. 11 & 12) is GRANTED IN PART as to Defendant Hammesfahr only. Defendant Hammesfahr shall respond to the Amended Complaint within forty-five (45) days of the date of this Order.
2. Defendants’ Construed Motion for Extension of Time (Docs. 11 & 12) is DENIED as to Defendant Stroke and Brain Specialists, LLC.
3. Defendant Stroke and Brain Specialists, LLC shall obtain counsel and respond to the Amended Complaint within forty-five (45) days of the date of this Order. If Defendant Stroke and Brain Specialists, LLC does not obtain counsel by this deadline, the Court will enter a default judgment against it.

DONE and **ORDERED** in Tampa, Florida, this 8th day of June, 2017.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record