

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

IZZAT NAZER,

Plaintiff,

v.

Case No: 8:16-cv-2259-T-36JSS

SAINT PETERSBURG POLICE  
DEPARTMENT and FIVE BUCKS  
DRINKERY LLC,

Defendants.

**ORDER ON PLAINTIFF'S MOTION FOR CLERK'S DEFAULT**

THIS MATTER is before the Court on Plaintiff's Motion for Clerk's Default. (Dkt. 20.) Plaintiff, pro se, moves for entry of clerk's default against Defendants, St. Petersburg Police Department and Five Bucks Drinkery LLC, for failure to answer or respond to the Complaint.

Under Federal Rule of Civil Procedure 55(a), "[w]hen 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." Here, although Defendants failed to timely respond to the Complaint, St. Petersburg Police Department has since filed a responsive pleading, and Five Bucks Drinkery LLC has since appeared. (Dkts. 21, 22, 24.)

Generally, "because of the strong policy of determining cases on their merits," defaults are disfavored. *Fla. Physician's Ins. Co. v. Ehlers*, 8 F.3d 780, 783 (11th Cir. 1993). Additionally, "[m]erely failing to timely file a responsive pleading does not suggest conduct that shows intentional or reckless disregard for judicial proceedings." *Bateh v. Colquett D. Trucking, Inc.*, No. 3:11-CV-926-J-32MCR, 2011 WL 4501385, at \*1 (M.D. Fla. Sept. 28, 2011). In this case, Defendants appeared shortly after Plaintiff filed the motion for default and have thus demonstrated

an intent to defend this action. Additionally, Plaintiff will not be prejudiced by the minimal delay, as this case is still in the early stages of litigation. Thus, the Court finds that a clerk's default is not appropriate in this instance.

Accordingly, it is **ORDERED** that Plaintiff's Motion for Clerk's Default (Dkt. 20) is **DENIED**.

**DONE** and **ORDERED** in Tampa, Florida, on December 8, 2016.

  
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JULIE S. SNEED  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
Counsel of Record  
Unrepresented Party