

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

DARRELL ARCHER,

Plaintiff,

v.

Case No.: 8:16-cv-3067-T-36AAS

**CITY OF WINTER HAVEN, et
al.,**

Defendants.

ORDER

Before the Court is Plaintiff's Requests for Entry of Default ("Motions for Clerk's Default") (Docs. 24, 25, 26). Specifically, Plaintiff seeks entry of a clerk's default against Ken Nichols, Winter Haven Police Department, and Dan Gaskin (collectively, "Defendants"). (*Id.*).

Federal Rule 55(a), which governs the entry of default, provides: "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). However, "[d]efault is to be used sparingly," and cases should normally be adjudicated on their merits. *Mitchell v. Brown & Williamson Tobacco Corp.*, 294 F.3d 1309, 1316 (11th Cir. 2002).

Here, attorney Jessica Christy Conner filed a Notice of Limited Appearance on behalf of Defendants on February 28, 2017, the day after Plaintiff filed his Motions for Clerk's Default. (Docs. 27, 28, 29). In addition, on March 8, 2017, Defendants filed their responses to Plaintiff's Motions for Clerk's Default. (Docs. 34, 35, 36). In said responses, Defendants point out that

service was improper. (*Id.*). Notwithstanding the insufficient service, Defendants Ken Nichols, Winter Haven Police Department, and Dan Gaskin have agreed to waive service and respond to Plaintiff's Complaint within 30 days. (Docs. 34, 35, 36, Ex. A).

Accordingly, after due consideration, it is **ORDERED**:

Plaintiff's Motions for Clerk's Default (Docs. 24, 25, 26) are **DENIED**. Defendants Ken Nichols, Winter Haven Police Department, and Dan Gaskin shall file a response to Plaintiff's Complaint (Doc. 1) no later than **April 7, 2017**.

DONE AND ORDERED in Tampa, Florida on this 10th day of March, 2017.



AMANDA ARNOLD SANSONE
United States Magistrate Judge