

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-61189-CIV-UNGARO

SCOTT SLUTZKY,

Plaintiff,

v.

AUTOMOTIVE PARTS EXPRESS WAREHOUSE,
INC., et al.,

Defendants.

ORDER DIRECTING CLERK TO ENTER DEFAULT

THIS CAUSE came before the Court upon a *sua sponte* review of the record.


THE COURT has considered the entire record and is otherwise fully advised in the premises. It appears that Defendants were served with the Summons and Complaint on August 5, 2008, which made their answer to the Complaint due on August 25, 2008. (*See* D.E. 5 & 6.) On August 25, 2008, an anonymous, handwritten statement was filed. (D.E. 4.) On September 3, 2008, Defendant Milwick filed a similar handwritten statement indicating, among other things, that he does not “consent to these proceedings.” (D.E. 7.) However, such filings cannot be properly considered as a response to the Complaint. On September 5, 2008, the Court ordered Defendants to show cause by noon on September 12, 2008, why a default should not be entered against them for failure to adequately respond to the Complaint. (D.E. 8.) Plaintiff served the Order to Show Cause on Defendants on September 9, 2008. (D.E. 9.) On September 12, 2008, the Court received an unsigned response to the Order to Show Cause, in which the author (presumably Defendant Milwick) states that the Order to Show Cause was “inadvertently received by mistake.” However, this “response” neither explains why a default should not be

entered against Defendants nor constitutes an adequate response to the Complaint. As the Court warned in its Order to Show Cause, failure to adequately respond would result in the entry of default against Defendants. Additionally, the Court notes that it is “well established that a corporation is an artificial entity that can act only through agents, cannot appear *pro se*, and must be represented by counsel.” *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985), *cert. denied*, 474 U.S. 1058 (1986); *In re K.M.A., Inc.*, 652 F.2d 398 (11th Cir. 1981); *Southwest Express Co. v. ICC*, 670 F.2d 53, 55 (5th Cir. 1982) (“Corporations and partnerships, both of which are fictional legal persons, obviously cannot appear for themselves personally.”). It is hereby

ORDERED AND ADJUDGED that the Clerk of the Court is directed to enter DEFAULT against Defendants. It is further

ORDERED AND ADJUDGED that Plaintiff SHALL file a Motion for Default Final Judgment against Defendants, duly supported by affidavits and other documentation and a proposed final order, by September 26, 2008. Plaintiff is advised that failure to timely comply with this order shall result in dismissal of this action against Defendants without further notice.

DONE AND ORDERED in Chambers at Miami, Florida, this 15th day of September, 2008.



URSULA UNGARO
UNITED STATES DISTRICT JUDGE

copies provided:
Counsel of Record