

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-61230-CIV-ZLOCH

DAVID BELLOT,

Plaintiff,

vs.

**DEFAULT FINAL JUDGMENT Re:  
LIABILITY AS TO DEFENDANT  
SUPERIOR CONSTRUCTION & FIXTURE  
d/b/a ROYAL CONSTRUCTING**

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SUPERIOR CONSTRUCTION &  
FIXTURES d/b/a ROYAL  
CONSTRUCTING, and JAY KOEING,

Defendants.

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THIS MATTER is before the Court upon Defendant Jay Koeing's Motion To Stay Discovery And Motion For Mediation (DE 14), Defendant Jay Koeing's Motion For Hearing (DE 15), Defendant Jay Koeing's Motion To Set Aside Default (DE 18), Defendant Jay Koeing's Motion For Hearing (DE 19), and Plaintiff David Bellot's Motion For Default Judgment (DE 17). The Court has carefully reviewed said Motions and the entire court file and is otherwise fully advised in the premises.

As demonstrated by Returns of Service (DE Nos. 8 & 9), Defendants were served on August 4, 2008, with a copy of the Complaint and Summons filed herein. Both Defendants failed to file the appropriate motion or responsive pleading within the time prescribed by law, and Default was entered against them both. Thereafter, Defendant Jay Koeing made an appearance, filed an Answer, and the instant Motions. (DE Nos. 14, 15, 18, & 19).

Koenig thereby established his intention to litigate this case pro se. However, Defendant Superior Construction & Fixtures has not made an appearance, and none of the pleadings filed by Defendant Jay Koeing purport to represent its interest. If it were later determined that Defendant Koeing's pleadings were meant to represent the interests of Defendant Superior Construction & Fixtures, it would be prohibited from so defending this action pro se through Koeing. Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985).

With his Motion for Default Final Judgment (DE 17), Plaintiff has filed an Affidavit in support of his damages claim. This Affidavit is equivocal in support of the hours Plaintiff actually worked for Defendants and damages that can be claimed. Defendant Jay Koeing represents that he has all of Plaintiff's employment records and will turn them over in discovery. Because Plaintiff has failed to establish his damages through his Affidavit, the Court will enter Default Final Judgment Re: Liability as to Defendant Superior Construction & Fixtures and take up the issue of Plaintiff's damages at pre-trial conference, after discovery is completed. There Plaintiff can establish his damages through the appropriate exhibits and testimony.

This case will otherwise proceed through the normal course of a law suit. Thus, the relief appropriately sought by Defendant Koeing in his Motions (DE Nos. 14, 15, 18, & 19) will be addressed

in the Court's scheduling and mediation orders, entered separately.

Accordingly, after due consideration, it is

**ORDERED AND ADJUDGED** as follows:

1. The Court has personal jurisdiction over the parties hereto and the subject matter herein;

2. Plaintiff David Bellot's Motion For Final Judgment After Default (DE 17) be and the same is hereby **GRANTED** to the extent it pertains to Liability for Defendant Superior Construction & Fixtures d/b/a Royal Constructing;

3. Pursuant to Federal Rules of Civil Procedure 55 and 58, Default Final Judgment Re: Liability be and the same is hereby **ENTERED** in favor of Plaintiff David Bellot and against Defendant Superior Construction & Fixtures d/b/a Royal Constructing;

4. In all other respects the instant Motion For Final Judgment After Default (DE 17) be and the same is hereby **DENIED**;

5. Defendant Jay Koeing's Motion To Set Aside Default (DE 18) be and the same is hereby **GRANTED**;

6. The Court's prior Order (DE 13) be and the same is hereby **VACATED**, set aside, and of no further force and effect;

7. Defendant Jay Koeing's Answer (DE 16) is hereby deemed timely filed;

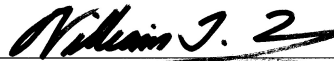
8. Jay Koeing's Motion To Stay Discovery And Motion For Mediation (DE 14) be and the same is hereby **GRANTED** to the extent

it seeks a Court order directing the Parties to engage in a mediation conference, in all other respects it be and the same is hereby **DENIED**;

9. The Court will enter a separate Order directing the Parties to engage in a mediation conference;

10. Defendant Jay Koeing's Motions For Hearing (DE Nos. 15 & 19) be and the same are hereby **DENIED**.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 29th day of September, 2008.



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WILLIAM J. ZLOCH  
United States District Judge

Copies furnished:

All Counsel and Parties of Record