

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 07-22388-CIV-O'SULLIVAN
[CONSENT]

EDILBERTO HERNANDEZ,
and other similarly situated,
Plaintiff,

v.

H.O.N. CONSTRUCTION COMPANY,
INC., et al.,
Defendants.

_____ /

ORDER

THIS MATTER came before the Court sua sponte. Having carefully reviewed the record and the law, it is

ORDERED AND ADJUDGED that a **DEFAULT** is entered in favor of the plaintiff and against defendant H.O.N. Construction Company, Inc. (hereinafter "H.O.N.").

H. Jeffrey Cutler, Esq., was counsel of record for the defendants, H.O.N. and Denis A. Lopez. On December 10, 2008, the Court issued an Order (DE# 41) allowing H. Jeffrey Cutler, Esq. to withdraw from the future representation of the defendants, effective December 30, 2008. The December 10, 2008 Order also allowed the corporate defendant, H.O.N., until December 30, 2008, to retain new counsel, and for said counsel to enter a formal appearance with this Court. Because H.O.N. is a corporation, it cannot proceed pro se. See Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985) ("The rule 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.").

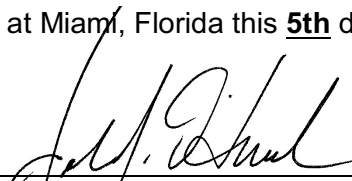
"It is well established that the district court has the authority to . . . enter default judgment . . . for failure to . . . comply with its orders." See Flaska v. Little River Marine

Construction Co., Inc., 389 F.2d 885, 887 (5th Cir. 1968),¹ cert. den. 88 S.Ct. 2287, 392 U.S. 928 (1968) (citations omitted). In the December 10, 2008 Order (DE # 41), the Court warned the defendants that if the corporate defendant failed to retain new counsel, or new counsel failed to enter a formal appearance with this Court on or before December 30, 2008, this Court could, based on a motion by the plaintiff, or sua sponte, enter a default in favor of the plaintiff and against defendant H.O.N. The defendants failed to comply with the December 10, 2008 Order. Accordingly, a default is entered in favor of the plaintiff and against H.O.N. It is further

ORDERED AND ADJUDGED that the individual defendant, Denis A. Lopez, shall comply with the December 10, 2008 Order requiring him to file a notice with the Court indicating the proper address for service of all future pleadings in this matter on or before **Tuesday, January 20, 2009. The failure to comply with this Order may result in a default against defendant Denis A. Lopez.** It is further

ORDERED AND ADJUDGED that H. Jeffrey Cutler, Esq. **shall serve a copy of this Order on the defendants and file a notice of compliance with the Court.**

DONE AND ORDERED in Chambers at Miami, Florida this 5th day of January, 2009.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies mailed by Chambers to:

H. Jeffrey Cutler
De La Cruz & Cutler
2 Alahambra Plaza
Penthouse 2-C
Coral Gables , FL 33134

¹ The Eleventh Circuit in Bonner v. City of Prichard, 661 F. 2d 1206, 1207 (11th Cir. 1981), adopted as precedent decisions of the former Fifth Circuit rendered prior to October 1, 1981.