

United States District Court
for the
Southern District of Florida

John Kadylak and Sandy Kadylak,)	
Plaintiffs)	
)	
v.)	Civil Action No. 14-24149-Civ-Scola
)	
Royal Caribbean Cruise, LTD., <i>et</i>)	
<i>al.</i> , Defendants)	

Order Granting Default Judgment on Liability

The Plaintiff has moved for default judgments on the issue of liability against Defendants Entertainment & Travel Alternatives, Inc. and Sergey Denisov under Federal Rule of Civil Procedure 55(b)(2), and has requested that the Court set this case for a trial on damages. (ECF Nos. 113, 114.) Previously, the Clerk of the Court entered defaults against Defendants Entertainment & Travel Alternatives, Inc. and Denisov under Rule 55(a). (ECF Nos. 111, 112.) “A defendant, by his default, admits the plaintiff’s well-pleaded allegations of fact,” as set forth in the operative complaint. *Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009). Therefore, the Court hereby enters default judgments on the issue of liability against Defendants Entertainment & Travel Alternatives, Inc. and Sergey Denisov.

With respect to damages, a court may award damages by default judgment “without a hearing [if the] amount claimed is a liquidated sum or one capable of mathematical calculation,” as long as “all essential evidence is already of record.” *S.E.C. v. Smyth*, 420 F.3d 1225, 1231, 1232 n.13 (11th Cir. 2005) (quoting *Adolph Coors Co. v. Movement Against Racism & the Klan*, 777 F.2d 1538, 1544 (11th Cir. 1985)). The Complaint demands a jury trial and requests damages for past and future medical expenses, lost wages, loss of earning capacity, physical pain, loss of enjoyment of life, disability, disfigurement, physical handicap, and pain and suffering (ECF No. 1). The Plaintiffs have not filed any affidavits or documents related to damages. (See Mot.’s for Default J., ECF Nos. 113, 114.) Rather, the Plaintiffs’ motions for default judgment request a trial on damages. (*Id.*) “When a plaintiff demands a jury trial, the defendant is entitled to a jury trial on unliquidated damages, regardless of whether default judgment has been entered against the defendant.” *Loos v. Club Paris, LLC*, 684 F.Supp.2d 1328, 1336 (M.D. Fla. 2010) (citations omitted) (noting that a demand for a jury trial may not be withdrawn without the consent of the parties); *see also Griffin v. Swim-Tech Corp.*, 722 F.2d 677, 679 (11th Cir. 1984) (noting that the trial court

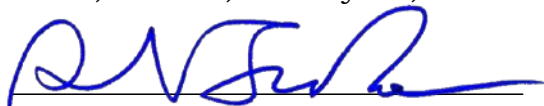
awarded a default judgment on the issue of liability and held a jury trial on damages); *Odes v. Harris*, No. 12-61561, 2015 WL 11142893 (S.D. Fla. July 27, 2015) (Scola, J.) (granting default judgment on liability and compensatory damages and setting jury trial for determination of non-liquidated and punitive damages).

Since the Court can award liquidated damages by default judgment without a hearing if the essential evidence is in the record, the Court directs the Plaintiffs to file affidavits of the liquidated damages due for the Plaintiffs' past medical expenses and lost wages, and any other supporting documentation necessary to determine the Plaintiffs' measure of liquidated damages. The Court will conduct a jury trial on the issue of non-liquidated damages.

Accordingly, the Court **orders** that:

1. Default judgment is entered against Defendants Entertainment & Travel Alternatives, Inc. and Sergey Denisov on the issue of liability.
2. The Plaintiffs shall submit affidavits and any other supporting documentation necessary to determine the Plaintiffs' measure of liquidated damages on or before **June 8, 2017**.
3. A jury trial is set in this matter on the issue of non-liquidated damages during the two-week trial period beginning on **July 10, 2017**. Calendar call will be held at 9:00 AM on the preceding Wednesday, **July 5, 2017**, at the Wilkie D. Ferguson, Jr. United States Courthouse, 400 N. Miami Avenue, Courtroom 12-3, Miami, Florida.

Done and ordered in chambers, at Miami, Florida, on May 19, 2017.


Robert N. Scola, Jr.
United States District Judge

Copies to:

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