

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

NOV 27 PM 7:22

Chambers of
Ellen Lipton Hollander
District Court Judge

CLERK'S OFFICE 101 West Lombard Street
AT BALTIMORE Baltimore, Maryland 21201
410-962-0742

BY _____ DEPUTY

November 27, 2018

MEMORANDUM TO COUNSEL

Re: *Dunham, et al. v. Muniz, et al.*
Civil Action No. ELH-18-1295

Dear Counsel:

As you know, on April 11, 2018, plaintiffs Alexandria Dunham and Alycea Rivera filed suit against defendants Christian Giovanni Muniz and Five Below, Inc. ("Five Below"). ECF 1 (the "Complaint"). Plaintiffs, employees of Five Below, assert that Muniz, an assistant manager of Five Below, illegally recorded them using the bathroom at various times between September 1, 2016, and November 15, 2016. *Id.* ¶¶ 16-17.

On May 24, 2018, Five Below waived service of process. *See* ECF 5-1 at 2 ("Waiver of the Service of Summons").¹ And, on August 15, 2018, it moved to dismiss the Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim. *See* ECF 7.

Plaintiffs effected service of process upon Muniz on June 6, 2018. *See* ECF 10-1 ("Affidavit of Service"). Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Muniz was required to respond to the Complaint by June 27, 2018.

On June 28, 2018, counsel for plaintiffs, Theodore Bruce Godfrey, notified the Court that he had received a letter that same day from Muniz. ECF 3. The letter was addressed to "T, Bruce [sic] Godfrey" and stated, ECF 3-1: "I, Christian Muniz, deny these claims you've been brought forth. I wish to settle this matter in a court of law."

Two months later, plaintiffs filed a "Motion for Default" against Muniz. ECF 10. They asserted that Muniz's note (ECF 3-1) did not constitute a pleading under Fed. R. Civ. P. 8, and that Muniz had "otherwise failed or refused to communicate" with the Court. *Id.* ¶ 3. On September 11, 2018, the Clerk entered an Order of Default, pursuant to Fed. R. Civ. P. 55(a). ECF 12.

¹ By marginal Order of July 5, 2015, I granted Five Below's request for an extension of time to file its response. *See* ECF 6.

