

Mack Financial Services,

Plaintiff,

v.

Civil No. 09-1933 (JNE/RLE)  
ORDER

Tim Flanigan Trucking, Inc.,  
Patricia Flanigan, and Tim  
Flanigan,

Defendants.

On September 23, 2009, default was entered against Defendants Tim Flanigan Trucking, Inc., Patricia Flanigan, and Tim Flanigan in this breach of contract action. Plaintiff filed a Motion for Default Judgment on November 5, 2009, and a hearing on the motion was scheduled for January 14, 2010. Plaintiff's motion, notice of hearing on the motion, memorandum in support of the motion, and supporting affidavits were mailed to Defendants on November 5, 2009. The Court received a letter dated December 21, 2009, from Tim Flanigan opposing the entry of judgment and requesting postponement of the hearing. The letter was electronically filed on January 11, 2010. That same day, the Court issued an Order indicating that it would construe the letter as a pro se motion to set aside default as to Patricia Flanigan and Tim Flanigan but that Tim Flanigan Trucking must be represented by counsel to avoid the entry of judgment against it. *See Fingerhut Corp. v. Ackra Direct Mktg. Corp.*, 86 F.3d 852, 857 (8th Cir. 1996) (“[T]he law does not allow a corporation to proceed pro se.”). The Order also indicated that the hearing on Plaintiff's motion would proceed as originally scheduled. A copy of the Order was sent to Defendants on January 11. Nobody appeared for Defendants at the January 14 hearing, and the Court granted Plaintiff's Motion for Default Judgment from the bench. *See Fed. R. Civ. P. 55(b)*.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT

IS ORDERED THAT:

1. Plaintiff's Motion for Default Judgment [Docket No. 10] is GRANTED.
2. Judgment is entered against Defendants, jointly and severally, in the amount of \$94,597.61. This amount consists of \$85,354.25 in principal; \$5,930.56 in interest; \$2,572.00 in attorney fees; and \$740.80 in costs.
3. Defendants' December 21, 2009, letter [Docket No. 16], which the Court construed as a pro se motion to set aside default as to Patricia Flanigan and Tim Flanigan, is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 14, 2010

s/ Joan N. Ericksen  
JOAN N. ERICKSEN  
United States District Judge