

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STRIDER ROGNIRHAR,)
)
 Plaintiff,)
)
 v.)
)
 TERRY S. SOUTHERN, or the)
 woman formerly known as such, and)
 TIMOTHY ELARIO,)
)
 Defendants.)

8:08CV51

**MEMORANDUM
AND ORDER**

There are pending motions that need my attention. I will deal with each of them as follows:

* Regarding filing [15](#), the plaintiff’s motion for entry of default against Terry S. Southern, the defendant has been served with process (filing [11](#)), but she has not responded. I have the discretion to give Ms. Southern additional time to plead or answer and I will do so because, among other things, there are substantial questions regarding whether a contract was formed and the amount in controversy. I will hold the plaintiff’s motion (filing [15](#)) in abeyance insofar as it pertains to Ms. Southern.

* Regarding filing [15](#), the plaintiff’s motion for entry of default against Timothy Elario, the defendant has filed an answer so I shall deny the plaintiff’s motion.

* Regarding the plaintiff’s motion for judgment or determination (filing [17](#)), I construe that as a motion for the entry of default judgment. I will deny it without prejudice because it is premature.

* Regarding the plaintiff's objection to answer (filing [18](#)) and the plaintiff's objection and motion to strike (filing [22](#)), I will grant the motions, construed only as motions to strike the answer of Timothy Elario, because Elario's answer is not signed. I will, however, give Timothy Elario additional time to plead or answer.

IT IS ORDERED that:

1. The plaintiff's Motion for Clerk's Entry of Default (filing [15](#)) against Terry Southern is held in abeyance. Ms. Southern shall have until the close of business on November 4, 2008 to plead or answer. The Clerk shall mail a copy of this memorandum and order to Ms. Southern by certified mail return receipt requested at the address shown in filing [11](#). Ms. Southern is warned that the failure to plead or answer within the time permitted may result in the entry of default judgment.
2. The plaintiff's Motion for Clerk's Entry of Default (filing [15](#)) against Timothy Elario is denied.
3. The plaintiff's Motion for Judgment or Determination (filing [17](#)), construed as a motion for entry of default judgment, is denied.
4. The plaintiff's Objection to Answer (filing [18](#)) and the plaintiff's Objection or Motion to Strike, construed as motions to strike the answer of Timothy Elario (filing [13](#)), are granted. Timothy Elario shall have until the close of business on November 4, 2008 to file a properly signed pleading or answer. The Clerk shall mail a copy of this memorandum and order to Mr. Elario by certified mail return receipt requested at the address shown in filing [12](#). Mr. Elario is warned that the failure to plead

or answer within the time permitted may result in the entry of default judgment.

5. My chambers shall call this case to my attention on November 5, 2008.

October 15, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge