

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CREATIVE RETAIL PACKAGING,
INC., a Texas corporation,

Plaintiff,

vs.

FREEDOM FOODS, a nonprofit
Minnesota corporation doing business
as Kids Against Hunger (a
Trademark of Freedom Foods) and
KIDS AGAINST HUNGER, a
nonprofit Minnesota corporation,

Defendants.

8:16-CV-411

ORDER

The Court is in receipt of correspondence (filing 38) from Darryl D. Malcom, the secretary/treasurer of defaulted defendant Kids Against Hunger, suggesting that Kids Against Hunger may not have understood the nature of its waiver of service, and that its failure to appear may be the result of confusion on its part. Given the judicial preference for adjudication on the merits, *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 784 (8th Cir. 1998), the Court will defer ruling on the plaintiff's motion for default judgment (filing 33) to give Kids Against Hunger a final opportunity to appear.

However, Malcom cannot appear as a *pro se* representative of Kids Against Hunger. As a nonprofit corporation, Kids Against Hunger cannot litigate in this forum without representation by licensed counsel. *Knoefler v. United Bank of Bismarck*, 20 F.3d 347, 347-48 (8th Cir. 1994). Accordingly,

IT IS ORDERED:

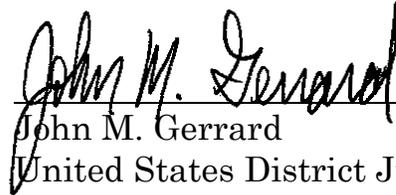
1. On or before May 1, 2017, Kids Against Hunger shall obtain the services of counsel and have that attorney file an appearance on its behalf, absent which the Court may enter a judgment of default against it without further notice.

2. The Clerk of the Court shall mail a copy of this order to:

Kids Against Hunger
c/o Darrel D. Malcom, Secretary/Treasurer
P.O. Box 88536
Carol Stream, IL 60188-8536

Dated this 24th day of March, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge