

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MT. HAWLEY INSURANCE COMPANY,

Plaintiff,

-v-

PAPA NIKOS PIZZA, INC. *and* MORGAN ALMOND,

Defendants.

22 Civ. 4154 (PAE)

ORDER

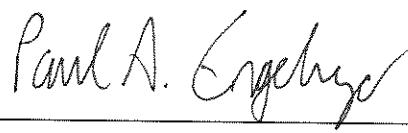
PAUL A. ENGELMAYER, District Judge:

On July 18, 2022 the Court issued an order to show cause for failure to prosecute, and directed the plaintiff to file a motion for default judgment. *See* Dkt. 9. On July 26, 2022, plaintiff filed a proposed certificate of default. *See* Dkt. 11.

Upon review of plaintiff's affidavits of service, however, *see* Dkt. 8, service upon defendant Papa Nikos Pizza, Inc. appears insufficient. Fed. R. Civ. P. Rule 4(e) permits service of process to be made in accordance with applicable state law where service is made. Here, service of process on Papa Nikos Pizza, Inc. was made in Florida. The affidavit states that the process server served the summons and complaint by "posting the documents in a conspicuous place" at the premises. That method, however, does not appear to accord with Florida rules for service of process. Neither Fla. Stat. § 48.031 (governing service of process generally), or Fla. Stat. § 48.081 (governing service of process on corporations) permits service by posting the summons and complaint at the premises.

Accordingly, by August 8, 2022, plaintiff is directed to file proof of service that is consistent with Florida law, or to file a letter explaining why its original service upon Papa Nikos Pizza, Inc. was proper.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: August 1, 2022
New York, New York