

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Mark T. Lee,)	C/A No.: 1:12-2109-CMC-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
EIBOT, LLC and n-Link Corp.,)	
)	
Defendants.)	
_____)	

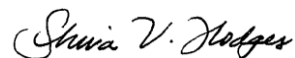
Plaintiff filed this employment discrimination case against EIBOT, LLC (“EIBOT”) and n-Link Corp. (“n-Link”). Plaintiff asserts a cause of action for retaliation against both defendants. EIBOT has answered [Entry #5]. Plaintiff filed a proof of service of the summons and complaint on n-Link. [Entry #12-2]. N-Link has not filed an answer or otherwise made an appearance. On December 10, 2012, the Clerk of Court entered default against n-Link. [Entry #13]. This matter now comes before the court on Plaintiff’s motion for default judgment against n-Link. [Entry #17].

Plaintiff’s complaint alleges that: “While Defendant n-Link had Plaintiff sign a ‘independent contractor’ agreement, at all times relevant to this action Plaintiff was a de facto co-employee of both Defendants, i.e., both Defendants paid him 20 hour per week to do the same job and had, based on information and belief, shared supervisory authority over him.” [Entry #1 at ¶ 2]. Plaintiff alleges that he filed a charge of discrimination against EIBOT on January 19, 2011 and was terminated on February 8, 2011. Id. at ¶¶ 19–20. Plaintiff further alleges that he “has filed appropriate charges with state and federal administrative agencies, has received his right to sue letters, and this action is

timely brought.” Id. at ¶ 8. Plaintiff’s complaint does not indicate that he filed a charge of discrimination against n-Link.

Exhaustion of administrative remedies is a statutory prerequisite to properly invoke the jurisdiction of the federal court. *See, e.g., Davis v. N.C. Dep’t of Corr.*, 48 F.3d 134, 140 (4th Cir.1995) (stating that “that receipt of, or at least entitlement to, a right-to-sue letter is a jurisdictional prerequisite”). Because the record is not clear that Plaintiff has exhausted his administrative remedies, the court directs Plaintiff to file on the docket by March 15, 2013, a right-to-sue letter or any relevant correspondence with the EEOC regarding exhaustion of administrative remedies as to n-Link such as to support the court’s subject-matter jurisdiction. Upon such a record establishing the court’s jurisdiction, the undersigned will address the pending motion for a default judgment.

IT IS SO ORDERED.



February 25, 2013
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge