

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**ROOR INTERNATIONAL BV and SREAM,
INC.,**

Plaintiffs,

v.

TEXAS TOBACCO 3 and JOHN DOE,

Defendants.

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Civil No.: 4:18-cv-00714-ALM-KPJ

**MEMORANDUM OPINION AND REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Before the Court is Plaintiffs’ Motion for Default Judgment (the “Motion”) (Dkt. 22). On January 17, 2020, Plaintiffs obtained a Clerk’s Entry of Default (Dkt. 21). The Court held a hearing on the Motion on April 30, 2020, and Defendants failed to appear. On May 19, 2020, the Court entered an Order and Report and Recommendation of United States Magistrate Judge (Dkt. 28).

On June 17, 2020, Defendant Amjad Talliti, owner of Defendant Texoma AMT, Inc., filed an answer, pro se, objecting to the lawsuit as frivolous. *See* Dkt. 29.

The Court issued an Order for the parties to file a status report on or before July 23, 2020, advising the Court of the status of the case and how they intend to proceed in this case. *See* Dkt. 30. As of the date of this Order, the parties have not filed a status report.

On July 27, 2020, the Court set a Show Cause Hearing for August 19, 2020. *See* Dkt. 32. The Court noted that if the parties were to submit a status report prior to the hearing date, the Court would consider whether to proceed with the show cause hearing. *See id.* The parties did not submit a status report and did not appear at the Show Cause Hearing.

In the Motion, Plaintiffs argued as justification for entry of default judgment that Defendants were served with the summons and Complaint but failed to file an answer or otherwise respond. *See* Dkt. 22 at 1. Defendant Amjad Talliti, owner of Defendant Texoma AMT, Inc., has now appeared in this matter and Plaintiffs have failed to comply with multiple Court orders which sought, in part, updated analysis on the Motion given Defendant's appearance. Namely, Plaintiffs failed to file a status report on or before July 23, 2020, failed to file a status report before August 19, 2020, and failed to appear at the Show Cause Hearing on August 19, 2020. In essence, the parties have been silent and non-responsive to Court orders since Defendant's appearance on June 17, 2020.

IT IS THEREFORE ORDERED that the Court **WITHDRAWS** the Order and Report and Recommendation entered on May 19, 2020 (Dkt. 28).

The Court recommend that Plaintiffs' Motion for Default Judgment (Dkt. 22) be **DENIED**.

IT IS FURTHER ORDERED that Plaintiffs shall provide a status report indicating how they wish to proceed with this suit by **August 27, 2020**. If Plaintiffs fail to file a status report or otherwise act, the Court will recommend that the case be dismissed without prejudice. If dismissal of the case is satisfactory to Plaintiffs, no further action is necessary.

Within fourteen (14) days after service of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C). The parties are directed to Local Rule CV-72(c) for page limitations on objections.

Failure to timely file written objections to the proposed findings and recommendations contained in this report shall bar an aggrieved party from de novo review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice.

Thomas v. Arn, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

So ORDERED and SIGNED this 20th day of August, 2020.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE