

IN THE COUNTY COURT FOR THE 12TH JUDICIAL CIRCUIT, SARASOTA
COUNTY, FLORIDA

Healthpark Surgery Center, LLC)
Plaintiff,)
-vs-) Case No. 2007 SC 003628 SC
Harry Ahluwalia)
Defendant.)

FILED FOR RECORD
VENICE BRANCH
2007 JUL 12 PM 1:38
KAREN E. RUSSELL
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

MOTION FOR DEFAULT BY THE COURT

Plaintiff moves for entry of a default by the court against defendant *Harry Ahluwalia* for failure to appear, serve or file written defenses, and the undersigned as required by law, specifically Fla. Sm. Cl. R. 7.090, and alleges as follows:

1. The complaint in the instant action was filed June 1st, 2007.
2. Defendant was served with the summons and complaint on June 6th, 2007 at 7:15 a.m.
3. Fla. Sm. Cl. R.7.090(a) requires a defendant to be present in person or by counsel at the Pretrial Conference.
4. Fla. Sm. Cl. R. 7.090(e) permits a defendant to be absent from Pretrial Conference only when he is represented by an attorney and a written waiver signed by all attorneys is presented to the court prior to the Pretrial Conference.
5. In the instant case, the Defendant did not appear in person. Rather, attorney Robert L. Cemovich appeared at the Pretrial Conference without a written waiver of appearance as required under Rule 7.090(e) purporting to be "covering" for attorney Robert P. Watrous.
6. Attorney, Robert P. Watrous has entered no paperwork indicating a notice of appearance on the Defendant's behalf.
7. Subject to the requirements of Fla. Sm. Cl. R. 7.090(e), Rule 7.090(f) allows an attorney to appear without his client at mediation only if the attorney "has full authority to settle without further consultation."
8. At the Pretrial Conference on July 11th, 2007, Robert L. Cemovich explicitly informed the court he was present without the Defendant and that he did not have any authority to mediate the matter at hand.
9. Defendant has filed do defensive pleadings under Fla. Sm. Cl. R. 7.090(e), nor has he filed any Counterclaims, Setoffs, Third-Party



Complaints, or Motions to Transfer when Jurisdiction is Exceeded pursuant to Fla. Sm. Cl. Rule 7.100. Any such pleading would have been due not less than 5 days prior to the Pretrial Conference, and is therefore deemed abandoned under this particular Small Claims Rule.

10. The county court judge presiding over the Small Claims Pretrial Conference was out of town on July 11th, 2007, so counsel for Plaintiff was unable to make an oral Motion for Default.

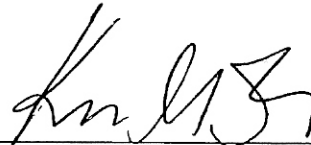
WHEREFORE, Counsel for Plaintiff requests this honorable court to enter a default against Defendant for his willful absence the court proceedings and his failure to file any responsive pleadings, and to award all claims, costs, and attorney fees to Plaintiff and any other relief the court may deem proper.

The undersigned certifies that a copy hereof has been furnished to

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