

STATE OF WYOMING)
)
COUNTY OF LARAMIE) SS.

IN THE DISTRICT COURT

FIRST JUDICIAL DISTRICT

JAKE NOCH, an individual,)
)
Plaintiff,)
)
vs.)
)
INDEPENDENT FILM DEVELOPMENT)
CORP., a Wyoming Corporation,)
)
Defendant.)

Docket No. 191-790

FILED

NOV 15 2019

DIANE SANCHEZ
CLERK OF THE DISTRICT COURT

**ORDER GRANTING DEFAULT JUDGMENT and DENYING AS MOOT
DEFENDANT’S MOTIONS**

This matter is before the court on Plaintiff’s request for default judgment. On November 13, 2019, the court listened to oral argument on Plaintiff’s request and took the matter under advisement. The court has considered the request, oral argument, and is fully informed in the premises. For the following reasons, the court finds default judgment against Defendant is appropriate.

Plaintiff filed his *Complaint* against Defendant on July 2, 2019. Plaintiff filed the *Complaint* to enforce his “inspection rights as a shareholder holding in excess of ten percent (10%) of the securities, and, upon information and belief, a majority of the common stock of the common stock, of IFLM under the Wyoming Business Corporation Act.” Compl. at 1, ¶ 1. Plaintiff asks the court to order Defendant to allow him “access to its books and records as appropriately and previously requested by the Plaintiff.” *Id.* at 9. According to the *Return of Service*, Defendant was properly served by delivery of copies to its registered agent on July 3, 2019. At no time has Defendant answered the *Complaint* through counsel. However, on July 22, 2019 Theo Hanson,

President and CEO of Defendant, filed a *Notice of Removal to Federal Court*. The United States District Court for the Southern District of California remanded the action back to this court on August 9, 2019.

On August 13, 2019, Plaintiff filed a *Motion for Entry of Default Judgment and Order*. In the motion, Plaintiff asked the Clerk of District Court to enter default pursuant to Rule 55(a) and for the court to subsequently enter default judgment. The Clerk of District Court entered default on August 13, 2019. After default was entered, Mr. Hanson filed a *Motion to Dismiss Duplicate Suit, Motion to Vacate Entry of Default, Motion to Dismiss* under WYO. R. CIV. P. 12(b), and *Motion to Intervene*. On August 22, 2019, Plaintiff filed an *Omnibus Motion to Strike Motion to Dismiss Duplicate Suit, Motion to Strike Appearance of Theo Hanson and Memorandum in Opposition to Motion to Dismiss Duplicate Suite*.

The court held a hearing on the entry of default on October 17, 2019. At that hearing, the court instructed Mr. Hanson that he can not represent Defendant and allowed Defendant time to obtain counsel. Counsel for Defendant entered an appearance on October 31, 2019 and filed a *Renewed Motion to Set Aside Default and Motion to Dismiss Duplicative Suit* on November 8, 2019. This matter was reset for a hearing on November 13, 2019.

Under WYO. R. CIV. P. 55(b), the court may enter default judgment after the moving party applies to the court for default judgment. WYO. R. CIV. P. 55(b)(2). The Rule states:

the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian, guardian ad litem, trustee, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may conduct hearings or make referrals—preserving any statutory right to a jury trial—when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

- (B) determine the amount of damages;
- (C) establish the truth of any allegation by evidence; or
- (D) investigate any other matter.

Id.

At the November 13, 2019 hearing, counsel for Defendant conceded Plaintiff properly served Defendant and that Defendant failed to file a timely *Answer* through counsel. As such, the court finds default judgment against Defendant is warranted. Additionally, as the court noted at the October hearing, Mr. Hanson is not able to represent Defendant in this action. The Wyoming Supreme Court has said: “It is well established that a person who is not an attorney is not entitled to appear in court for a corporation regardless of his interest in or association with it.” *Aviation Maint. Publishers, Inc. v. Capital Corp.*, 740 P.2d 940, 941 (Wyo. 1987). As a result, Mr. Hanson’s motions filed in this action are **DENIED AS MOOT** and Plaintiff’s responsive motion to strike is also **DENIED AS MOOT**. The court will reserve ruling on Defendant’s renewed motion to set aside default and motion to dismiss until briefing is complete.

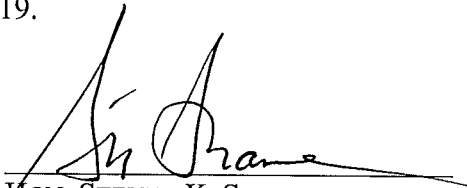
IT IS ORDERED Plaintiff’s request for default judgment is **GRANTED**.

IT IS ORDERED Defendant’s *Motion to Dismiss Duplicate Suit, Motion to Vacate Entry of Default, Motion to Dismiss* under WYO. R. CIV. P. 12(b), and *Motion to Intervene* are **DENIED AS MOOT**.

IT IS ORDERED Plaintiff’s *Omnibus Motion to Strike Motion to Dismiss Duplicate Suit, Motion to Strike Appearance of Theo Hanson and Memorandum in Opposition to Motion to Dismiss Duplicate Suite* is **DENIED AS MOOT**.

IT IS FINALLY ORDERED Plaintiff shall file a response to *Defendant's Renewed Motion to Set Aside Default and Motion to Dismiss Duplicative Suit* by December 2, 2019. Defendant shall file a reply by December 17, 2019. A hearing on the motions will be set upon counsel's written request.

Dated this 14 day of November 2019.

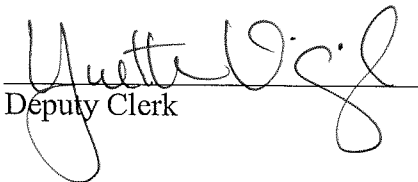

HON. STEVEN K. SHARPE
First Judicial District Court

Please provide copies to:

✓ Bruce Asay - B
Associated Legal Group, LLC
1812 Pebrican Ave.
Cheyenne, WY 82001

Katy Brown - B
Woodhouse Roden Nethercott, LLC
1912 Capitol Ave., Suite 500
Cheyenne, WY 82001

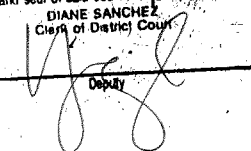
I hereby certify that I distributed a true and correct copy of the foregoing this 15 day of November 2019, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]


Deputy Clerk

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE

I Diane Sanchez, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.

Witness my hand and seal of said court this 15 day of Nov 2019

DIANE SANCHEZ
Clerk of District Court
By  Deputy

STATE OF WYOMING)
)
COUNTY OF LARAMIE)

SS.

IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT

JAKE NOCH, an individual,)
)
Plaintiff,)
)
vs.)
)
INDEPENDENT FILM DEVELOPMENT)
CORP. et al.,)
)
Defendants.)

Docket No. 191-858

FILED
NOV 15 2019
DIANE SANCHEZ
CLERK OF THE DISTRICT COURT

**ORDER GRANTING DEFAULT JUDGMENT AS TO DEFENDANT CORPORATION
and DENYING AS MOOT DEFENDANT THEO HANSON’S MOTIONS**

This matter is before the court on Plaintiff’s request for default judgment against Defendant Independent Film Development Corp. (“Defendant Corporation”). On November 13, 2019, the court listened to oral argument on Plaintiff’s request and took the matter under advisement. The court has considered the request, oral argument, and is fully informed in the premises. For the following reasons, the court finds default judgment against Defendant Corporation is appropriate.

Plaintiff filed his *Complaint* against Defendants on July 23, 2019. Plaintiff filed the *Complaint* “to protect his investment as [] a shareholder of at least 10% of the Common Stock of IFLM and his fellow shareholders of IFLM.” Compl. at 2, ¶ 5. Plaintiff asks the court for declaratory judgment and preliminary and permanent injunction. *Id.* at 6–8, ¶¶ 23–34. According to the *Return of Service* for Defendant Independent Film Development Corp. (“Defendant Corporation”), Defendant Corporation was properly served by delivery of copies to its registered agent on July 25, 2019. Plaintiff served Defendants Theo Hanson, Craig Loupelle, and Robert Maguire by delivery of copies to Defendant Corporation’s registered agent as well. At no time has

Defendant Corporation answered the *Complaint* through counsel. However, Defendant Hanson, President and CEO of Defendant Corporation, filed various motions in this case on behalf of Defendants and removed this case to the United States District Court for the District of Wyoming. Defendant Hanson also filed copies of motions he filed on behalf of Defendants in the United States District Court for the Southern District of California. On September 17, 2019, the United States District Court for the District of Wyoming remanded this case.

On September 17, 2019, Plaintiff filed a *Motion for Entry of Default Judgment and Order Against the Defendant, Independent Film Development Corp.* In the motion, Plaintiff asked the Clerk of District Court to enter default pursuant to Rule 55(a) and for the court to subsequently enter default judgment. The Clerk of District Court entered default against Defendant Corporation on September 17, 2019. After default was entered, Mr. Hanson filed *Defendants' Motion to Dismiss* under WYO. R. CIV. P. 12(b) and *Defendants' Motion to Vacate Entry of Default.*

On September 19, 2019, Plaintiff filed a *Motion for Entry of Default, Default Judgment and Order Against Defendant Theo Hanson.* In the motion, Plaintiff asked the Clerk of District Court to enter default pursuant to Rule 55(a) and for the court to subsequently enter default judgment. The Clerk of District Court entered default against Defendant Hanson on September 19, 2019.

The court held a hearing on October 21, 2019. At the hearing, the court informed Mr. Hanson that he cannot represent Defendant Corporation and allowed time for Defendant Corporation to obtain counsel. Counsel for Defendants entered an appearance on October 31, 2019 and filed a *Renewed Motion to Set Aside Default and Motion to Dismiss* on November 8, 2019. This matter was reset for a hearing on November 13, 2019.

Under WYO. R. CIV. P. 55(b), the court may enter default judgment after the moving party

applies to the court for default judgment. WYO. R. CIV. P. 55(b)(2). The Rule states:

the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian, guardian ad litem, trustee, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may conduct hearings or make referrals—preserving any statutory right to a jury trial—when, to enter or effectuate judgment, it needs to:

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- (D) investigate any other matter.

Id.

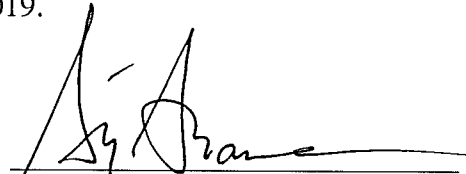
At the November 13, 2019 hearing, Plaintiff asked the court to enter default judgment against Defendant Corporation. Counsel for Defendant Corporation conceded Plaintiff properly served Defendant Corporation and that Defendant Corporation failed to file a timely *Answer* through counsel. Based on Plaintiff's representations to the court, the file, and Defendant Corporation's counsel's statements, the court finds default judgment against Defendant Corporation is warranted. Additionally, as the court noted at the October hearing, Mr. Hanson is not able to represent Defendant Corporation in this action. The Wyoming Supreme Court has said: "It is well established that a person who is not an attorney is not entitled to appear in court for a corporation regardless of his interest in or association with it." *Aviation Maint. Publishers, Inc. v. Capital Corp.*, 740 P.2d 940, 941 (Wyo. 1987). As a result, Mr. Hanson's motions filed in this action on behalf of Defendant Corporation are **DENIED AS MOOT**. The court will reserve ruling on Defendant's renewed motion to set aside default and motion to dismiss until briefing is complete.

IT IS ORDERED Plaintiff's request for default judgment against Defendant Corporation is **GRANTED**.

IT IS ORDERED Defendant Hanson's *Defendants' Motion to Dismiss* under WYO. R. CIV. P. 12(b) and *Defendants' Motion to Vacate Entry of Default* are **DENIED AS MOOT**.

IT IS FINALLY ORDERED Plaintiff shall file a response to *Defendant's Renewed Motion to Set Aside Default and Motion to Dismiss Duplicative Suit* by December 2, 2019. Defendant shall file a reply by December 17, 2019. A hearing on the motions will be set upon counsel's written request.

Dated this 14 day of November 2019.



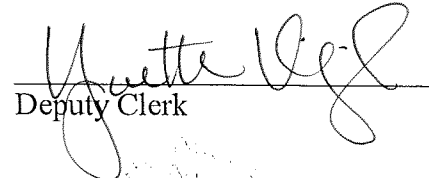
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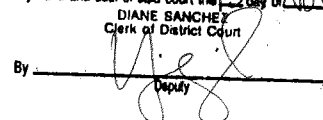
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1912 Capitol Ave., Suite 500
Cheyenne, WY 82001

I hereby certify that I distributed a true and correct copy of the foregoing this 15 day of November 2019, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]



Deputy Clerk

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE
I, Diane Sanchez, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.
Witness my hand and seal of said court this 15 day of Nov, 2019
DIANE SANCHEZ
Clerk of District Court

By 

Deputy