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April 27th, 2023

Keith Gaudioso,Esq.

Via email: [redacted]

Re: Kameka Management et.al v. 16260 Saddle Club Road, LLC., Et al

Case no. CACE22001852

Mr. Gaudioso:

Pursuant to your request please find the transcript of the hearing conducted on January 30th,2023. Now that you agreed that an evidentiary hearing is required to determine jurisdiction of the court over the defendants, it appears that the hearing you set for Tuesday, May 2nd,2023 should be postponed until the Motion to Quash and Vacate is heard by the court. But that is your call. Let me know ASAP if you agree to cancel it, as it will save our respective clients money. Thank you.

Very truly yours,

Bob Rosenblatt

exhibit 1

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI,

Plaintiffs,

v. Case No. CACE22001852

16260 SADDLE CLUB ROAD, LLC, RYAN BURKE, VIEW LIVE, LLC, and 2045 SW 127TH AVENUE, LLC,

Defendants.

VIDEOCONFERENCE HEARING

DATE: Monday, January 30, 2023

TIME: 2:02 p.m.

BEFORE: Honorable W. Haury, Jr.

LOCATION: Remote Proceeding
Fort Lauderdale, FL 33301

REPORTED BY: Kenia Rodriguez, Notary Public

JOB NO.: 5694781

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

RAYMOND CARRERO, ESQUIRE

Raymond Carrero, P.A.

9771 South Dixie Highway

Pinecrest, FL 33156

[redacted]

ON BEHALF OF DEFENDANT:

ROBERT ROSENBLATT, ESQUIRE

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD

(None marked.)

P R O C E E D I N G S

MR. ROSENBLATT: Yes, sir.

THE COURT: And tell me why service on Mr. Burke is not sufficient.

MR. ROSENBLATT: Well, Your Honor, as the Court well knows, obscured compliance with the statutes is required and without proper service, a court cannot proceed with the matter. Under Florida Statute 48.031, it requires the name of the person to be served and in this case Mr. Burke's name is on there and it is clear that he was not the one who was served. The person who was served, evidently, is a third party --

MR. CARRERO: Possible the connection's lost.

THE COURT: He's apparently -- it appears to be locked up.

MR. ROSENBLATT: -- and because the person who was served, there is no name --

THE COURT: Counselor Rosenblatt, you were locked up for the last 30 seconds. I did not hear anything after 48.031.

MR. ROSENBLATT: Oh. I'm sorry, Your honor. Okay. Let me retreat here. 48.0 -- can you hear me now, Judge?

THE COURT: Yes. I can.

MR. ROSENBLATT: Okay. Sorry about that. That statute requires the name of the person upon whom it was served. The return fails to indicate the name of the person who was served which makes the return invalid. It also fails to advise to indicate if the person that was served resides at the regular place of abode or the residence. That is not on there either. Both of those items are required under --

THE COURT: I was going to say, are we looking at the same return of service?

MR. ROSENBLATT: Yes. Yes, Your Honor.

THE COURT: Because I didn't see the return necessarily in the -- I see it attached to the response on page 27 of 38.

MR. ROSENBLATT: I don't think there's any question about the return. Mr. Burke was not served. The process server found someone outside the house, served that person, didn't get the name of that person, didn't put the name of that person on the return, and also did not indicate that that person resided in the same residence as Mr. Burke. That makes the service invalid on its face. Nevertheless, Mr. Burke has filed an affidavit with the Court that he was not served, that he was in Las Vegas, Nevada

from April 1st through April 14th. We supplied airline tickets to Counsel showing departure date and the return date. So quite clearly Mr. Burke was not served and if the Court feels that there's a question there, then the Court should conduct an evidentiary hearing, but we believe that the motion to quash is well taken because of the failure of the return to indicate the name of the person who was actually served who was not Mr. Burke and the failure to indicate that that person resided at that particular residence. We gave Your Honor supplemental authorities that under Murphy vs. Cach, C-A-C-H, at 230 So. 2d 599, the Court held service was facially defected because it did not contain the name of the person served and a physical description of a John Doe in lieu of providing the name was insufficient to comply with this statute. The Vives case, V-I-V-E-S, also reversed the trial court and denied a motion to quash and to the same effect of Carus, C-A-R-U-S, vs. Cove at Isles, which is the third district case where the service did not state the name of the person served despite providing a description of a John Doe, there was insufficient compliance with the statute, Your Honor. So clearly, they have not shown proper service under the statute and if the Court has a

question as to conflict here then the Court should conduct an evidentiary hearing and have Mr. Burke sworn under oath as he was in the affidavit and we can produce additional travel documents. But it's quite clear from the evidence that Mr. Burke was not in Florida, was not served, they didn't have the name of the person served, they didn't indicate the name of that person --

THE COURT: Okay. Mr. Rosenblatt, I'm looking at page 10 of 10 of your motion then the affidavit and I see the ticket out and but I do not see the ticket back.

MR. ROSENBLATT: That's true, Your Honor. And that was inadvertently omitted, and I sent Mr. Carrero Friday or maybe Saturday the return of that showing he returned on April 14th and we discussed that this morning as well.

THE COURT: Mr. Carrero, agree or disagree?

MR. CARRERO: Disagree, Judge. First, I would start --

THE COURT: You did not see a return ticket for April 14th?

MR. CARRERO: No. I'm sorry. I didn't realize that you were asking specifically about that.

I thought that you meant if I agreed in general with the presentation of counsel.

THE COURT: No. No. No.

MR. CARRERO: No. No. No. Yes. He sent me something similar to what is attached to the affidavit which is an email screenshot of the confirmation of the ticket purchase. It doesn't indicate whose ticket it was, whether Mr. Burke actually boarded the plane, you know, it doesn't give any of those other details and I'll tell you why that's important, Judge. Under the law, and I have, you know, our court reporter present, because I was presuming that she might testify but I could proffer to what her testimony might be and it's all really tracked in her affidavit. But here we have the return of service that's regular on its face, meaning, it alleges the four necessary elements for it to be valid. Date and time --

THE COURT: Yeah. I agree with your first half, but I have a an -- here's my issue. I have an affidavit the other way with some documentation indicating that Mr. Burke was not in the state on the date of the service was supposedly made.

MR. CARRERO: Right. And the Court has to consider this on a clear and convincing evidence

standard. And so we have a self-serving testimony and we have some email, you know, summaries or captures of what the emails look like, but we don't really have a ticket, we don't have an itinerary. If he'd have gone to Vegas, he would have receipts of places he went, maybe a hotel stay, things he purchases, dinners he bought, etc. None of that's included in the affidavit. And when the Court's looking at a clear and convincing --

THE COURT: Yeah. Mr. Carrero, may I stop you for a second?

MR. CARRERO: Yes, please.

THE COURT: Mr. Rosenblatt, is Mr. Burke going to testify this afternoon?

MR. ROSENBLATT: Judge, this wasn't a notice for an evidentiary hearing. So the answer is no.

THE COURT: I thought all motions to quash were evidentiary.

MR. ROSENBLATT: Not necessarily, Your Honor. It wasn't noticed as an evidentiary hearing.

THE COURT: I'm looking at Ms. Lowe here who appears to be ready to testify.

MR. ROSENBLATT: Well, we weren't noticed it was an evidentiary hearing, Your Honor,

that's why we're -- that's why we're asking if there's a conflict here. We're asking for an evidentiary hearing.

THE COURT: And how much time do we need?

MR. ROSENBLATT: For an evidentiary hearing?

THE COURT: Yes.

MR. ROSENBLATT: I'd say an hour. Maybe 45 minutes.

THE COURT: Counselor Carrero, agree or disagree?

MR. CARRERO: I would agree that if we had an evidentiary hearing an hour would be sufficient. Yes.

THE COURT: Okay.

MR. ROSENBLATT: And we will supply documents, payment of the hotel. Other evidence there. An affidavit filed with the Court is not to be taken lightly, Your Honor, under pain of perjury.

THE COURT: I agree. Mr. Carrero, do you have any interest in deposing Mr. Burke prior to the hearing?

MR. CARRERO: Yes. I do.

THE COURT: And Mr. Rosenblatt, any

objections at least as to service?

MR. ROSENBLATT: To Mr. Burke being deposed? I'm sorry, Your Honor.

THE COURT: At least as to service. Any objections to the deposition of Mr. Burke?

MR. ROSENBLATT: No, sir.

THE COURT: Okay. Like I said, please get that done sooner as opposed to later. Mr. Carrero wants to take the deposition. If you're still contesting or disagreeing, let me know and I'll get you an evidentiary hearing.

MR. CARRERO: Okay. Is the Court aware of what the timeframe might be for something like this because we have had options already cancelled because of storms.

THE COURT: -- the end of this month, I'll put you at the end of my calendar for next month.

MR. CARRERO: Okay. Calendar call? I'm sorry.

THE COURT: To get you a date in --

MR. CARRERO: Oh. Okay. On the sale. All right. Got it. Okay. Understood.

MR. ROSENBLATT: So the sale will be cancelled pending the deposition --

THE COURT: I was going to say, you

know, that's, I guess --

MR. ROSENBLATT: It's going to be causing the client --

THE COURT: What is the sale?

MR. CARRERO: Presumably a bidder would not bid with a pending motion to quash but that could affect the sale --

THE COURT: Has the sale been noticed?

MR. CARRERO: Yes. It has.

THE COURT: And when was it noticed for?

MR. CARRERO: February 8th.

THE COURT: Okay. I will cancel the sale.

MR. CARRERO: Could there be a timeframe, Judge, within which the deposition must take place?

THE COURT: Let's do it within the next 30 days. One additional item, I guess, for both of you. If attorneys add that Mr. Burke was served then, Mr. Carrero, I'm looking at an allegation and also a returned receipt card from Mr. Burke.

MR. CARRERO: Yes.

THE COURT: Arquably, that would be -- since it did come back to you then arguably, that

would fall under the last sentence of 1.500B which would require notice of the hearing which would undo the default at least as to everybody else -- as to everyone, actually.

MR. CARRERO: The hearings were all --

THE COURT: I saw clerk's default.

MR. CARRERO: Oh. I'm sorry. Then it must have been for the corporate because the corporate defendants cannot be defaulted by the clerk, so I'll have to take a look at that in the docket.

THE COURT: Okay. Well, let me look real quick.

MR. CARRERO: Now, just so I understand, Judge, the signature card is not for a copy of the complaint.

THE COURT: Understood. Coming back back from the defendant.

MR. CARRERO: So a return receipt is considered a --

THE COURT: -- proposed settlement.

MR. CARRERO: Pardon me? I didn't hear that.

THE COURT: I said, presumably, with regard to your proposed settlement.

MR. CARRERO: So what the Court is

saying is that by sending the proposed settlement by return receipt and the card coming back, that that's considered somehow an answer to the complaint?

THE COURT: No. I don't think it's an answer to the complaint, but I think it's something that was served by the defendant that would require, or at least arguably require notice pursuant to the last sentence of 1.500B. And I'm looking at default as to Mr. Burke was also entered by the clerk. So all the defaults were clerk's defaults.

MR. CARRERO: Okay.

THE COURT: Okay. Gentlemen, any questions?

MR. ROSENBLATT: Do you want us to prepare the order?

MR. CARRERO: No questions.

THE COURT: I'm sorry?

MR. ROSENBLATT: Would you like us to prepare the order, Your Honor?

THE COURT: Please.

MR. ROSENBLATT: Okay. I'll discuss it with Counsel, and we'll submit the order.

THE COURT: Okay. Very well. Thank you very much. Have a good afternoon.

MR. ROSENBLATT: Thank you, Your Honor.

I appreciate your time.

MR. CARRERO: Thanks, Your Honor.

THE COURT: Okay.

MR. CARRERO: Thank you.

(Whereupon, at 2:16 p.m., the proceeding was concluded.)

CERTIFICATE OF DEPOSITION OFFICER

I, KENIA RODRIGUEZ, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



KENIA RODRIGUEZ
Notary Public in and for the
State of Florida

CERTIFICATE OF TRANSCRIBER

I, LACI PLETCHER, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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[redacted] [redacted]

Re: Notice of Cancellation of Deposition - Kameka Management Solutions and Eryck Dzotsi vs. 16260 Saddle Club Road LLC, Ryan Burke | Case CACE-22-001852

ray carrerolegal.com [redacted]
Tue 3/21/2023 3:54 PM
To: Robert Rosenblatt [redacted]

I'm still waiting on your reply to our request for acceptance of service and mediation of the case at large. In the spirit of what you mentioned here: "maybe the case can be resolved"; I think mediation is our best shot.

Let me know...

Raymond Carrero, Esquire

Raymond Carrero, P.A.
9771 South Dixie Highway
Pinecrest, Florida 33156
Telephone: [redacted]
Fax: [redacted]

Please Note: Our business address has changed to: 9771 S. Dixie Hwy., Pinecrest, Fl 33156. Please update your records to reflect the change.

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On Mar 13, 2023 at 4:23 PM -0400, Robert Rosenblatt [redacted] wrote:

> Ray, We did not receive the cancellation of the depo the day prior. The notice sent by your office was received at 1:36 the day of the depo which was set for 2PM. Despite the extremely late notice I am not making an issue of it or moving for attorney fees. In fact, I did not learn of it until I tried to go to the zoom and was informed by zoom that the depo was cancelled. I rarely, if ever move for attorney fees as a sanction as I am "old school" when it comes to that. I will advise you of Mr. Burke's response. Although there is little doubt that if there is a hearing the court will grant our motion. But maybe the case can be resolved. Thanks
>
> From: Gio Vidal [redacted]
> Sent: Friday, March 10, 2023 1:35 PM
> To: Robert Rosenblatt
> Subject: Notice of Cancellation of Deposition - Kameka Management Solutions and Eryck Dzotsi vs. 16260 Saddle Club Road LLC, Ryan Burke | Case CACE-22-001852

exhibit 2

Mr. Rosenblatt,

As per Mr. Raymond Carrero's instructions, attached please find the Notice of Cancellation of Deposition scheduled for today. Mr. Carrero would like to have a phone call scheduled with you next week. We'll get back to you later on with some dates and times for you to check.

Thank you!

Cordially,

Gio Vidal
Assistant to Raymond Carrero, Esq.

Raymond Carrero, P.A.
9771 S. Dixie Hwy,
Pinecrest, FL 33156
Telephone: [redacted]
Fax: [redacted]

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From r...

To: Paola G. Lopez

Re: Special Set Hearing Request... Draft saved at 2:20 PM

Sorry, I was wrong on the May 23 date as I will still be in California or flying back. Let's try for some dates in early June before the circuit judge. 30-45 minutes should be sufficient. Any questions please have the attorney call me. Thanks

---

From: Bob Rosenblatt
[redacted]
Sent: Monday, May 1, 2023 3:30 PM
To: Paola G. Lopez
Subject: Re: Special Set Hearing Request - Defendants' Motion to Quash Service and Set

exhibit 3

Re: Special Set Hearing R... Re: Special Set Hear...

your computer.

-----Original Message-----
From: Paola G. Lopez
Sent: Wednesday, May 10, 2023 12:24 AM
To: Bob Rosenblatt [redacted] Keith Gaudioso, Esq. [redacted]
Subject: RE: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE
Importance: High

Good morning,

I hope this email finds you well. Please accept this email as a formal request to schedule a 30 Min. hearing on Defendants' Motion to Quash Service and Set Aside Default, on the above referenced matter. As such, our office would like to confirm your availability for any of the following dates:

Thursday, June 1, 2023 at 9:30 am
Friday, June 2, 2023 at 9:30 am

Please Confirm your availability. Should you have any further questions or concerns, do not hesitate to contact me. Thank you in advance.

Best regards,

Paola Lopez

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-----Original Message-----
From: Bob Rosenblatt [redacted]
Sent: Tuesday, May 2, 2023 2:21 PM
To: Paola G. Lopez [redacted] Keith Gaudioso, Esq. [redacted]
Subject: Re: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

Sorry, I was wrong on the May 23 date as I will still be in California or flying back. Let's try for some dates in early June before the circuit judge. 30-45 minutes should be sufficient. Any questions please have the attorney call me.
Thanks

From: Bob Rosenblatt [redacted]
Sent: Monday, May 1, 2023 3:30 PM
To: Paola G. Lopez
Subject: Re: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW

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From r...

To: Keith Gaudioso, Esq.

Re: Special Set Hearing Request... Draft saved at 3:00 PM



Keith, perhaps you can advise me a local rule or otherwise which mandates that the objection needs to be brought to the attention of the circuit judge. Unless you can point to a rule that requires it, I do not want to waste the judge's time.

From: Keith Gaudioso, Esq.
[redacted]
Sent: Monday, May 15, 2023 2:20 PM
To: [redacted]
Cc: Paola G. Lopez; Danielle Cohen, Esq.
Subject: FW: Special Set Hearing Request -

FW: Special Set Hearing ... Re: Special Set Hear...

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From r...

To: Keith Gaudioso, Esq.

Re: Special Set Hearing Request... Draft saved at 2:45 PM

Keith Gaudioso Esq.
Attorney
Cohen Law
www.CohenLawPA.com
2332 Galliano Str
Suite 200
Coral Gables, FL 3

Keith, Your office was aware of our objection to the GM hearing any matters. Therefore, the hearings never should have been set before the GM. It makes no sense if one wants to have the litigation move quickly to have the GM enter its proposed order, then the losing party has 2 weeks to bring it before the circuit judge with an objection. This only delays the litigation. I do not believe I need to bring the objection to the circuit judge as he/she has no discretion on the matter. You are free to file whatever motions you desire but they need to be set before the circuit judge and we will respond. You should just renotice before the

FW: Special Set Hearing ... Re: Special Set Hear...

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From r...

To Paola G. Lopez ×
Keith Gaudioso, Esq. ×

Cc

Bcc Ryan Burke ×

Re: Special Set Hearing Request... Draft saved at 2:02 PM

On April 26th, 2023 we filed an objection to referring this matter to the General Magistrate. My secretary mistakenly sent the CS to former counsel, Ray Carrero. Please look at the docket. This matter needs to be set before the circuit judge. Please cancel the hearings before the GM and obtain some dates from the circuit court judge for a special setting on defendants motion to quash. Any questions please feel free to call me. Thank you.

From: Paola G. Lopez [redacted]
Sent: Monday, May 15, 2023 12:54 PM

RE: Special Set Hearing R... Re: Special Set Hear... ×

Filing # 171875582 E-Filed 04/26/2023 04:03:06 PM

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO. CACE-22-001852

KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI,

Plaintiff,

-vs-

16260 SADDLE CLUB ROAD, LLC, RYAN BURKE, VEW LIVE, LLC and 2045 SW 127th Avenue, LLC.

Defendants.
_____/

DEFENDANT'S OBJECTIONS TO COURT ORDER OF APRIL 26, 2023 REFERRING MATTER TO GENERAL MAGISTRATE

Defendants file this Objection to this Court's Order dated April 24th, 2023 referring this matter to this General Magistrate.

Respectfully Submitted,

/s/: ROBERT A. ROSENBLATT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Clerk of Court via e-filing and copies were furnished via email to: Raymond Carrero, Esq., 9771 S. Dixie Highway, Pinecrest, Florida 33156, at [redacted]

FW: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

Keith Gaudioso, Esq. [redacted]
Mon 5/15/2023 2:20 PM
To: [redacted]
Cc: Paola G. Lopez [redacted] Cohen, Esq. [redacted]
Bob,

I understand that you filed an objection to the referral, but you never brought your objection to the court and the court has not withdrawn the referral. We need to have the pending matters heard expeditiously. Your delay tactics have effectively resulted in a 6 month stay of execution without having in fact obtained a stay and without posting the required bond.

We will proceed to set the hearings with the magistrate until the court withdraws the referral. Also, we are filing a motion to re-set the foreclosure sale or require def[redacted] a bond.

Keith



Keith Gaudioso Esq.
Attorney
Cohen Law
www.CohenLawPA.com
[redacted]
2332 Galliano Street
Suite 200
Coral Gables, FL 33134
[redacted]

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From: Paola G. Lopez [redacted]
Date: Monday, May 15, 2023 at 1:32 PM
To: Keith Gaudioso, Esq. [redacted]
Subject: FW: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

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have received this transmission in error, please immediately notify me by forwarding this e-mail to [redacted] or by telephone at [redacted] and then delete the message and its attachments from your computer.

-----Original Message-----
From: Bob Rosenblatt [redacted]
Sent: Monday, May 15, 2023 1:30 PM
To: Paola G. Lopez [redacted]
Subject: Re: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

This does not work. We objected to the mag. and want the circuit judge to hear these matters. Please obtain some dates before the circuit judge.

From: Paola G. Lopez [redacted]
Sent: Monday, May 15, 2023 12:54 PM
To: Bob Rosenblatt
Subject: RE: Special Set Hearing Request - Defendant [redacted]ash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI v [redacted]E CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

Yes, June 1, 2023 is for defendants motion to quash and set aside default judgment that is already scheduled.

We will use the June 2 for Plaintiffs' Motion for Entry of Money Judgment and Plaintiffs' Motion for Referral to Mediation.

Best regards,
Paola Lopez

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-----Original Message-----
From: Bob Rosenblatt [redacted]
Sent: Monday, May 15, 2023 12:52 PM
To: Paola G. Lopez [redacted]
Subject: Re: Special Set Hearing Request - Defendants' Motion to Quash Service and Set Aside Default - KAMEKA MANAGEMENT SOLUTIONS, INC. and ERYCK DZOTSI vs. 16260 SADDLE CLUB ROAD, LLC, VEW LIVE, LLC, 2045 SW 127TH AVENUE, LLC and RYAN BURKE

We are available for June 2nd at 9:30 on defendants motion to quash and set aside default judgment. See your email of May 10th. This motion needs to be heard first.

From: Paola G. Lopez [redacted]

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From r...

To Keith Gaudioso, Esq. [redacted] Cc

Bcc Ryan Burke

Re: Special Set Hearing Request... Draft saved at 4:38 PM



Keith, the rule of objecting to a referral to a GM is self-executing, and the GM agrees. The GM has cancelled the June 1 and June 2nd hearings before her. Once the objection is timely made counsel cannot proceed in front of the GM. The parties have an absolute right to have a circuit judge rule on all matters. To move this case forward we need to set a special hearing of perhaps 45 minutes on defendants' motion to quash and set vacate judgment. Although Mr. Carrero made this offer to us and defendant accepted, I am not going to hold you to that agreement as it would involve depos of Mr. Carrero on whether

Re: Special Set Hearing R... Re: Special Set Hear...

GEDALYA BLATTER, Appellant,

v.

D.N. SUYTE INC., Appellee.

No. 4D22-2398.

District Court of Appeal of Florida, Fourth District.

May 3, 2023.

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara Anne McCarthy, Judge; L.T. Case No. CACE22008764.

Lawrence R. Metsch of Metschlaw, P.A., Hollywood, for appellant.

Rafael M. Rojas, Key Biscayne, for appellee.

PER CURIAM.

Appellant Gedalya Blatter appeals the trial court's order entering final default judgment in favor of appellee D.N. Suyte Inc. After the clerk entered a default against appellant for not responding to the complaint, appellant filed a motion to vacate the default which appellee opposed. The trial court held a hearing on both appellee's motion for final default judgment and appellant's motion to vacate. The trial court granted appellee's motion and entered a final judgment in its favor that included an injunction against appellant.

This appeal followed. "We review the entry of a default final judgment for abuse of discretion." *Azure-Moore Invs. LLC v. Hoyen*, 300 So. 3d 1268, 1270 (Fla. 4th DCA 2020). However, because the issues presented here are issues of law they are subject to a de novo review. *McPhee v. The Paul Revere Life Ins. Co.*, 883 So. 2d 364, 367 (Fla. 4th DCA 2004).

"It was established long ago that a court may not enter a default judgment with an undisposed motion pending that would affect the plaintiff's right to proceed to judgment." *Singh v. Kumar*, 234 So. 3d 1, 3 (Fla. 4th DCA 2017); *see also Goodman v. Joffe*, 57 So. 3d 1001, 1001 (Fla. 4th DCA 2011) ("[T]he trial court should have ruled on [the defendant's] pending motion to vacate the default entered against her before entering a default final judgment."); *Lakeview Auto Sales v. Lott*, 753 So. 2d 723, 724 (Fla. 2d DCA 2000) ("A trial court may not enter a default judgment without first determining the merits of any pending motion to set aside the default.").

Here, a motion to vacate the default was filed prior to the court's entry of the default final judgment. However, the trial court granted the motion for final default judgment without addressing appellant's motion to vacate, and the record does not indicate the court ever specifically ruled on appellant's motion. As we have previously held, "[o]bviously a favorable determination by the court on appellant's motion to set aside the . . . default would have affected appellee's right to proceed with its motion for final default judgment." *Vacation Escape, Inc. v. Mich. Nat'l Bank*, 735 So. 2d 528, 529-30 (Fla. 4th DCA 1999) (finding the trial court reversibly erred in entering final default judgment without first determining the merits of a defendant's pending motion to set aside the default).

While the parties almost certainly addressed the motion to vacate at the hearing, and the order granting the entry of final default judgment indicates the appellant's arguments to vacate the default were rejected, our longstanding jurisprudence is clear that a ruling on such a motion is required, and we are compelled to follow it. *See, e.g.*, *Singh*, 234 So. 3d at 3. Therefore, the court erred as a matter of law when it issued the final default judgment without entering a ruling on the appellant's pending motion.

We reverse the default final judgment and remand for further proceedings consistent with this opinion. *See Off Lease Only LLC v. Chariscar*, 350 So. 3d 369, 370 (Fla. 4th DCA 2022).

Reversed and remanded.

KLINGENSMITH, C.J., DAMOORGIAN and LEVINE, JJ., concur.

exhibit 4