

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

JOHN WILLIAM LICCIONE,

Plaintiff,

v.

Case No.: 24-003939-CI

JULIE MARCUS, et al.,

Defendants.

**PLAINTIFF'S RESPONSE TO THE COURT'S BLANKET SUA SPONTE
MOTION TO STAY PROCEEDINGS AS IT APPLIES TO DEFENDANTS
LOPER, HEINZEN, AND WEINKRANTZ**

COMES NOW the Plaintiff, John William Liccione, pro se, and hereby files this response to the Court's sua sponte Motion to Stay Proceedings against all Defendants, in particular as it applies to Defendants Cathy Salustri Loper, Patrick Heinzen, and Mark Weinkrantz, and states as follows:

1. Lack of Federal Case Involvement for Defendants Loper and Heinzen

Defendants Cathy Salustri Loper and Patrick Heinzen are not parties in the federal case currently pending in the United States District Court for the Middle District of Florida (Case No.: 8-24-cv-2005-SDM-NHA). Therefore, staying the proceedings against Defendants Loper and Heinzen in this state case would be inappropriate and would unduly delay Plaintiff's right to pursue claims against them in a forum at a time when no federal proceedings against them are currently pending.

2. Defendant Weinkrantz Defaulted as of October 16th, 2024

Defendant Mark Weinkrantz is in default in this state action as of October 16, 2024, and Plaintiff filed a Motion for Clerk Default on October 18th. Under Florida law, a defaulted defendant is considered to have admitted the well-pleaded allegations of the complaint and has forfeited the right to further contest liability. Staying proceedings against Weinkrantz would be procedurally improper and would delay Plaintiff's pursuit of a default judgment and award and collection of damages without valid grounds, particularly as Weinkrantz has shown no participation or intent to defend even some 21 days after Plaintiff filed his Motion for Clerk Default on October 18th, 2024. The Clerk Entry of Default against Weinkrantz is procedurally mandatory under these circumstances.

LEGAL ARGUMENT

A. Comity Does Not Justify a Stay for Defendants Not Involved in Federal Action

The doctrine of comity, as cited by the Court, generally supports a stay only where both actions involve the same nucleus of facts and the same parties or substantially similar issues. In *Roche v. Cyrulnik*, 337 So. 3d 86 (Fla. 3d DCA 2021), and *OPKO Health, Inc. v. Lipsius*, 279 So. 3d 787 (Fla. 3d DCA 2019), stays were granted due to overlapping parties and claims. In this case, Defendants Loper and Heinzen are not parties to the federal case, and their alleged conduct in the state action does not overlap with matters pending in federal court. Therefore, principles of comity do not require a stay for Defendants Loper and Heinzen, as there is no risk of inconsistent results.

B. Procedural Status of Weinkrantz Requires Moving Forward with Default Judgement Proceedings

Under Florida Rule of Civil Procedure 1.500, once a default has been entered, a defendant is deemed to have admitted all well-pleaded allegations of the complaint. The court in *Cinkat Transp., Inc. v. Maryland Cas. Co.*, 596 So. 2d 746 (Fla. 3d DCA 1992) held that a party in default is generally precluded from contesting liability, having forfeited the right to challenge the complaint's allegations. Similarly, in *Becerra v. Equity Imports, Inc.*, 551 So. 2d 486 (Fla. 3d DCA 1989) and *Somero v. Hendry Gen. Hosp.*, 467 So. 2d 1103 (Fla. 4th DCA 1985), the courts affirmed that a default serves as an admission of liability, leaving only the determination of damages.

Allowing a stay in such cases would hinder the efficient administration of justice, as stated in *Board of Regents v. Stinson-Head, Inc.*, 504 So. 2d 1374 (Fla. 4th DCA 1987), where the court emphasized that defaulted parties should not be permitted to circumvent the consequences of their default. Since Defendant Weinkrantz has failed to respond, he has forfeited his right to contest the allegations, and a stay would improperly delay Plaintiff's ability to obtain a timely default judgment.

Moreover, Plaintiff is prepared to dismiss the parallel federal suit against Weinkrantz upon this Court's entry of an order of default and an award and collection of the damages sought in this case. Thus, a timely judgment in this state proceeding would not only streamline judicial resources but would also make the federal case against Weinkrantz unnecessary, resulting in the dismissal of claims against him in federal court. Accordingly, a sua sponte stay would delay justice without purpose, as the state

court's resolution of Plaintiff's claims against the defaulted defendant would avoid duplicative litigation and conserve judicial resources at both the state and federal levels. In summary, the entry of default establishes Weinkrantz' liability and entitles Plaintiff to proceed to judgment without delay. A sua sponte stay would unjustly hinder and delay Plaintiff's ability to pursue damages efficiently, and, given Plaintiff's commitment to dismiss the federal case against Weinkrantz upon a favorable judgment, such a stay would serve no legitimate purpose.

C. Potential Prejudice to Plaintiff

A stay of proceedings against Loper, Heinzen, and Weinkrantz would cause undue prejudice to Plaintiff, as it would unreasonably delay his right to proceed with the claims against them.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this Court deny the Motion to Stay Proceedings against Defendants Cathy Salustri Loper, Patrick Heinzen, and Mark Weinkrantz, allowing Plaintiff to proceed with his claims against these defendants without delay, and grant such further relief as deemed just and proper.

Respectfully submitted,

/s/ John W Liccione
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Response in Opposition to Court's Motion to Stay was served on Defendants Julie Marcus and Jennifer Griffith vi counsel of record via the Court's e-file and e-serve system, and via postage pre-paid 1st class mail on Defendants Mark Weinkrantz and Patrick Heinzen on this 9th day of November 2024.

/s/ John W Liccione
John W Liccione