IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re: Tehum Care Services, Inc. *Debtor*	Case No.: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati *Plaintiff*, v. Sarah Tirschwell, et al., *Defendants*.	Adv. Pro. No. 23-03072 (CML)

DEFENDANT SCOTTSDALE INSURANCE COMPANY'S RESPONSE TO PLAINTIFF'S SECOND APPLICATION FOR ENTRY OF DEFAULT JUDGMENT

Defendant Scottsdale Insurance Company ("Scottsdale") files this Response to Plaintiff's Second Application for Default Judgment against multiple defendants, including Scottsdale (Doc. 132), stating in support as follows:

1. Plaintiff Anant Kumar Tripati ("Plaintiff") initiated this adversary proceeding against multiple defendants, including Scottsdale, on May 1, 2023 ("Plaintiff's Complaint"). (*See* Doc. No. 01.) The Court issued a Summons on Scottsdale and several other named defendants on May 19, 2023 (Doc. 05); however, Scottsdale was never served.

2. On July 17, 2023, Plaintiff filed an Application for Default against Scottsdale (Doc. 72) for Scottdale's purported failure to issue a response. Scottsdale filed an objection on August 4, 2023 with a supporting affidavit demonstrating that it was never served, and that it did not become aware of this dispute until Plaintiff filed his Application for Default Judgment. (*See* Doc. 103 and enclosed affidavit.)

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3. That same day, Scottsdale filed a Motion for Time Extension to Respond to Plaintiff's Complaint (Doc. 104) where it agreed to waive service of process and requested an additional 60 days to respond to Plaintiff's Complaint. The Court granted this motion on August 7, 2023 (Doc. 108).

4. Plaintiff, on August 30, 2023, filed an Application for Default Judgment against several defendants, including Scottsdale, although it is not entirely clear whether Plaintiff intended to include Scottsdale in the application.[1]

5. In abundance of caution, Scottsdale files this objection to the extent Plaintiff seeks to default Scottsdale, and respectfully requests that the Court deny Plaintiff's Second Application as to Scottsdale. Scottsdale will timely answer Plaintiff's Complaint by October 3, 2023, pursuant to the Court's Order (Doc. 108).

WHEREFORE, Defendant Scottsdale Insurance Company respectfully requests that the Court DENY Plaintiff's Application for Default.

Respectfully submitted,

/s/ Patrick M. Kemp

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ATTORNEY-IN-CHARGE FOR DEFENDANT SCOTTSDALE INSURANCE COMPANY

[1] The title to Plaintiff's Application for Default Judgment includes "Scottsdale Insurance Company". However, Plaintiff later notes that "… Scottsdale has until October to file their motion." Doc. 132, at p. 3.

OF COUNSEL:

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served electronically via CM/ECF and mailed this the 31st day of August, 2023 to:

Anant K. Tripati 102081
ASPC Yuma, Cibola Unit
P.O. Box 8909
Yuma, AZ 85349
United States

/s/ Patrick M. Kemp
Patrick M. Kemp

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ORDER DENYING PLAINTIFF'S SECOND APPLICATION FOR ENTRY OF DEFAULT AGAINST DEFENDANT SCOTTSDALE INSURANCE COMPANY

ON THIS DAY came to be heard Plaintiff Anant Kumar Tripati's Second Application for Entry of Default against Defendant Scottsdale Insurance Company. After considering Plaintiff's Application, the response of Scottsdale Insurance Company, and any replies, the Court is of the opinion that Plaintiff's Second Application for Entry of Default against Defendant Scottsdale Insurance Company should be and is hereby DENIED. It is therefore ORDERED that Plaintiff's Second Application for Entry of Default against Defendant Scottsdale Insurance Company is DENIED in its entirety.

SO ORDERED on this ____ day of _____, 2023.

_____
UNITED STATES DISTRICT JUDGE