

ENTERED

November 03, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DISH NETWORK L.L.C.,

Plaintiff,

VS.

YAHYA ALGHAFIR, *et al.*,

Defendants.

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CIVIL ACTION NO. 4:20-CV-1678

ORDER

Pending before the Court is Plaintiff DISH Network L.L.C.’s (“DISH Network”) motion requesting that the Court strike the pleadings of Defendant Shenzhen Jiemao Technology Co., Ltd. (“Jiemao”) and enter both Rule 55(a) default and Rule 55(b) default judgments against all defendants. *See* Fed. R. Civ. P. 55. The motion (Dkt. 55) is **GRANTED IN PART**. The Court will enter default against all defendants under Federal Rule of Civil Procedure 55(a) and will set this matter for a default judgment hearing.

Judge Hittner, to whom this case was originally assigned, has previously noted that all of the defendants in this case have been served and that all but one have failed to respond to DISH Network’s complaint. (Dkt. 37; Dkt. 41 at p. 6). The lone exception is Jiemao. Jiemao originally attempted to appear through a non-attorney corporate officer, Ze Wang, but then hired an attorney after Judge Hittner warned it that its pleadings would be stricken and that default could be entered against it if it failed to obtain counsel. (Dkt. 41 at p. 6; Dkt. 42).

Jiemaos attorney withdrew two months before the August 12, 2022 docket call; and no one appeared at docket call on Jiemaos behalf. (Dkt. 54; Dkt. 57). When DISH Network filed this motion for entry of default, Jiemaos again attempted to appear through Ze Wang by filing a response signed by Ze Wang. (Dkt. 56).

As Judge Hittner pointed out earlier in this case, Jiemaos, as a corporation, cannot appear *pro se* and must be represented by licensed counsel. *Memon v. Allied Domecq QSR*, 385 F.3d 871, 873 (5th Cir. 2004); *see also Rowland v. California Men’s Colony*, 506 U.S. 194, 202–03 (1993). A corporation may not be represented by one of its officers if that officer is not a licensed attorney. *In re K.M.A., Inc.*, 652 F.2d 398, 399 (5th Cir. 1981). When a corporation fails to obtain substitute counsel after its counsel withdraws, the trial court may strike its pleadings and enter default against it, provided that the trial court has either expressly warned the corporation that it must retain counsel or formally ordered it to do so. *Memon*, 385 F.3d at 873–74; *see also, e.g., RLI Insurance Co. v. Shell Offshore, Inc.*, No. 06-2573, 2008 WL 504051, at *1 (E.D. La. Feb. 21, 2008) (striking the pleadings of a corporation that had failed to obtain new counsel after the district court had warned it that failure to hire new lawyers would result in entry of default); *Hoxworth v. Blinder, Robinson & Co., Inc.*, 980 F.2d 912, 918 (3d Cir. 1992) (affirming entry of default where defendants failed to comply with “unambiguous order[] to obtain substitute counsel”).

Judge Hittner warned Jiemaos that its pleadings would be stricken and that default could be entered against it if it failed to obtain counsel. (Dkt. 41 at p. 6). Jiemaos hired counsel after receiving that warning, but its counsel withdrew over four months ago and

it has not hired substitute counsel. (Dkt. 42; Dkt. 54). In the face of DISH Network's pending motion seeking entry of default and a default judgment against it, Jiemao, as it did before Judge Hittner, is again attempting to appear through a non-attorney corporate officer. Under these circumstances, the Court will strike Jiemao's pleadings and enter default.

DISH Network's motion requesting that the Court strike the pleadings of Defendant Shenzhen Jiemao Technology Co., Ltd. and enter both Rule 55(a) default and Rule 55(b) default judgments against all defendants (Dkt. 55) is **GRANTED IN PART**. Rule 55(a) default is entered against all defendants. The Court will hold a default judgment hearing **on November 28, 2022 at 1:00 p.m. by video**.

Join ZoomGov Meeting
<https://www.zoomgov.com/j/1610596833?pwd=aJHUmErbDY0bWZhakZEMEM4QVFFQT09>
Meeting ID: 161 059 6833
Passcode: 718468

The Court **ORDERS** DISH Network to serve a copy of this Order on all defendants and to file proof of that service with the Court **on or before November 23, 2022**.

SIGNED at Houston, Texas on November 3, 2022.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE