

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

EQUAL EMPLOYMENT	:	
OPPORTUNITY COMMISSION,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
vs.	:	
	:	3:05-CV-0097-CC
GAMMANS ARCHITECTURAL	:	
d/b/a Skylights International, Inc.,	:	
	:	
and	:	
	:	
GAMMANS ARCHITECTURAL	:	
PRODUCTS, INC.,	:	
	:	
Defendants.	:	

ORDER

This matter is before the Court on Plaintiff's Motion for Default Judgment [Doc. No. 8].

I. BACKGROUND

On September 30, 2005, Plaintiff Equal Employment Opportunity Commission ("Plaintiff" or the "EEOC") commenced the above-styled action against Defendants Gammans Architectural, d/b/a Skylights International, Inc. and Gammans Architectural Products, Inc. (collectively referred to herein as "Defendants"). The EEOC brought the action under Title VII of the Civil Rights Act of 1964, as amended, to correct alleged unlawful employment practices on the basis of race and to provide relief to Mr. James Hall and Mr. Gary Richardson, who allegedly were adversely affected by Defendants' practices.

On December 6, 2005, Nelson T. Gammans, the president of Defendant Gammans Architectural Products, Inc., filed an Answer on the corporation's behalf. Also on December 6, 2005, Debra A. Gammans, the president of Defendant

Gammans Architectural d/b/a Skylights International, Inc., filed an Answer on that entity's behalf. Because corporations may not appear pro se in federal court proceedings and must be represented by an attorney, however, and Defendants did not retain counsel as directed by the Court in an Order entered on December 7, 2005, both filings were stricken from the record of the case. In addition, due to Defendants' failure to plead or otherwise defend the lawsuit, default was entered against Defendants effective January 27, 2006. Plaintiff now moves for entry of default judgment.

II. STANDARD

When a plaintiff's claim is not for a sum certain or cannot be made certain by computation, Federal Rule of Civil Procedure 55(b)(2) authorizes the court to grant a default judgment against a party who has failed to answer or otherwise defend against a complaint following the clerk's entry of default. Rule 55(b)(2) also provides, in pertinent part, the following:

If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper....

Fed. R. Civ. P. 55(b)(2); see also Anheuser-Busch, Inc. v. Philpot, 317 F.3d 1264, 1266 (11th Cir. 2003) ("following entry of a default judgment, a district court may conduct an evidentiary hearing 'to determine the amount of damages or to establish the truth of any averment by evidence....'" (citing Fed. R. Civ. P. 55(b)(2))).

A default judgment should be entered only when the factual allegations in the complaint, which are deemed admitted by reason of default, provide a sufficient legal basis to justify entry of a default judgment. Fidelity & Deposit Co. v. Williams, 699 F. Supp. 897, 898-99 (N.D. Ga. 1988). Thus, when ruling on a motion for default judgment, the court must investigate the legal sufficiency of the allegations contained in the plaintiff's complaint. Nishimatsu Constr. Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975). "The defendant is not held to admit facts

that are not well-pleaded or to admit conclusions of law.” Id.

III. DISCUSSION

A. Liability

Plaintiff’s Complaint brings a Title VII claim against Defendants and alleges that Defendants wrongfully terminated Mr. Hall and Mr. Richardson based on their race. Plaintiff’s claim is based on the following facts. Mr. Hall and Mr. Richardson were employed by Defendants at their facility in Newnan, Georgia. Mr. Hall was employed as a saw operator, and Mr. Richardson was employed as a saw helper. Mr. Hall and Mr. Richardson were the most tenured and experienced individuals in their respective positions. Nevertheless, purportedly due to lack of work, Defendants laid off both Mr. Hall and Mr. Richardson, but Defendants retained less tenured and experienced non-black employees. Shortly after Defendants laid off Mr. Hall and Mr. Richardson, Defendants hired less qualified non-black employees or assigned less qualified incumbent employees to perform the job duties and responsibilities previously performed by Mr. Hall and Mr. Richardson.

The allegations in the Complaint, taken as true, establish Defendants’ liability under Title VII. The Court finds that, since at least July 2003, Defendants have engaged in unlawful employment practices at their facilities in Newnan, Georgia, in violation of Title VII by laying off Mr. Hall and Mr. Richardson. The Court further finds that the effects of Defendants’ practices have been to deprive Mr. Hall and Mr. Richardson of equal employment opportunities and otherwise adversely affect their status as employees because of their race. Based on these findings, which are supported by the factual allegations in the Complaint, Plaintiff is entitled to judgment as a matter of law on its Title VII claim.

Plaintiff has also alleged in the Complaint that Defendants’ unlawful employment practices were intentional and that Defendants carried out the unlawful employment practices with malice and/or reckless indifference to the federally protected rights of Mr. Hall and Mr. Richardson, but these allegations are

not supported by specific facts. Therefore, in accordance with Fed. R. Civ. P. 55(b)(2), Plaintiff shall put on evidence at a hearing to establish the truth of these allegations.

B. Damages

In addition to seeking injunctive relief, which this Court will award, Plaintiff seeks an order requiring Defendants to provide Mr. Hall and Mr. Richardson appropriate back pay with prejudgment interest and other affirmative relief necessary to eradicate the effects of their unlawful employment practices. Plaintiff also requests that the Court order Defendants to provide Mr. Hall and Mr. Richardson compensation for past and future pecuniary losses resulting from Defendants' unlawful employment practices. Plaintiff further requests that the Court order Defendants to provide Mr. Hall and Mr. Richardson compensation for non-pecuniary losses resulting from Defendants' unlawful employment practices, including emotional pain and suffering, inconvenience, loss of enjoyment of life, anxiety, stress, depression, and humiliation. Finally, Plaintiff seeks an order requiring Defendants to pay Mr. Hall and Mr. Richardson punitive damages for Defendants' malicious and reckless conduct. As the damages sought by Plaintiff are not "for a sum certain or for a sum which can by computation be made certain," Fed. R. Civ. P. 55(b)(1), Plaintiff shall put on evidence at the above-mentioned hearing regarding the damages due Mr. Hall and Mr. Richardson. See Fed. R. Civ. P. 55(b)(2).

IV. CONCLUSION

Based on the foregoing, the Court **GRANTS** Plaintiff's Motion for Default Judgment [Doc. No. 8] to the extent set forth herein and hereby **ORDERS** the following:

1. Defendants, its officers, successors, assigns, and all persons in active concert or participation with it, are permanently enjoined from engaging in discrimination and any other employment practice that discriminates on the basis

of race;

2. Defendants are to institute and carry out policies, practices, and programs that provide equal employment opportunities for Black individuals and that eradicate the effects of its past and present unlawful employment practices;

3. Defendants are to make whole Gary Richardson and James Hall by providing back pay with prejudgment interest, in amounts to be determined, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, reinstatement of Mr. Hall and Mr. Richardson without loss of seniority;

4. Defendants are to make whole Gary Richardson and James Hall by providing compensation, in an amount to be determined, for any past and future pecuniary losses resulting from the unlawful employment practices; and

5. Defendants are to make whole Gary Richardson and James Hall by providing each compensation, in an amount to be determined, for any non-pecuniary losses resulting from the unlawful employment practices, including emotional pain and suffering, anxiety, depression, loss of self-esteem, loss of enjoyment of life, inconvenience, stress, and humiliation.

The Court further **ORDERS** that this matter be **REFERRED** back to Magistrate Judge Janet F. King for an evidentiary hearing to be held on the issue of whether Defendants' unlawful employment practices were intentional and carried out with malice and/or reckless indifference to the federally protected rights of Mr. Hall and Mr. Richardson and on the issue of damages, including without limitation any punitive damages, due Mr. Richardson and Mr. Hall. A final judgment shall issue following the undersigned's consideration of Magistrate Judge King's Report and Recommendation and any objections thereto.

(SIGNATURE ON FOLLOWING PAGE)

SO ORDERED this 28th day of April, 2006.

s/ CLARENCE COOPER

CLARENCE COOPER
UNITED STATES DISTRICT JUDGE