

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

BRENT C. OXLEY, an individual,

Plaintiff,

v.

PUNEET AGARWAL A/K/A
PUNIT AGARWAL, an individual,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:20-CV-02388

REQUEST FOR ENTRY OF DEFAULT

**TO: CLERK OF THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

Plaintiff Brent C. Oxley (“Plaintiff”) hereby requests the Clerk of Court enter a default against Defendant Puneet Agarwal (“Defendant”) pursuant to Federal Rule of Civil Procedure 55. In support of its request, Plaintiff states:

1. As a threshold matter, this request meets the procedural requirements for obtaining entry of a default from the Clerk of Court as demonstrated by the Affidavit of Foss Baker in Support of Plaintiff’s Motion for Default Judgment on Defendant in India attached as Exhibit “1” hereto and Affidavit of Daniel V. Carsey attached as Exhibit “2” hereto.

A. Service of Process.

2. On July 7, 2020, Plaintiff commenced this lawsuit seeking both damages and injunctive relief against Defendant. *See Verified Complaint* [Doc. No. 1].

3. Defendant was served the *Verified Complaint* [Doc. No. 1] and *Summons* [Doc. No. 4] by Federal Express on July 28, 2020. *See Plaintiff's Status Report* [Doc. No. 15], ¶ 1.

4. Out of an abundance of caution and because Defendant resides in Dehli, India, Plaintiff delivered the *Verified Complaint* [Doc. No. 1] and *Summons* [Doc. No. 4] to the Indian Central Authority on September 2, 2020, to be served on Defendant in a manner consistent with the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 UST 361, 658 U.N.T.S. 163 T.I.A.S. # 10072 (the "Hague Convention"). *See Ex. 1, ¶ 7.*

5. Plaintiff, through its service agent Ancillary Legal Corporation, made multiple efforts to identify the status of the Indian Central Authority's service of Defendant. *See Ex. 1, ¶ 8.*

6. The Indian Central Authority did not respond nor provide a proof of service regarding Defendant. *See id.*

7. Nonetheless, because more than six months have passed since the documents for service were provided to the Indian Central Authority, this Court is authorized by the Hague Convention to proceed with litigation in this matter, including by entry of default judgment against Defendant. *See Ex. 1, ¶ 9; Hague Convention, Art. 15.*

B. Default by Defendant.

8. The Court has entered certain email communications from Defendant on the docket for this matter. *See Response to Motion for Temporary Restraining Order and Preliminary Injunction* [Doc. No. 7]; *Supplemental Response to Motion for Temporary Restraining Order and Preliminary Injunction* [Doc. No. 8]; *Motion for Appointment of Counsel* [Doc. No. 11]; *Answer to Complaint* [Doc. No. 23]; *Supplemental Answer to Complaint* [Doc. No. 24].

9. But, a review of these documents reveals none of Defendant's email communications to the Court are sufficient to constitute pleading or otherwise defending this lawsuit in the manner required by Federal Rules of Civil Procedure 7, 8, 10, and 12.

10. To be sure, the Clerk of Court can and should enter default against a party for "failure to comply with court rules of procedure." *Sindhi v. Raina*, 905 F.3d 327, 332 (5th Cir. 2018).

11. Defendant is not a minor or incompetent person. And, Defendant will be notified of this request and any subsequent entry of default because the Court has caused Defendant to receive ECF notices for this matter.

12. Accordingly, Plaintiff is entitled to entry of default against Defendant in this matter.

C. Conclusion.

13. For the foregoing reasons, Plaintiff respectfully requests the Clerk of Court enter a default against Defendant pursuant to Federal Rule of Civil Procedure 55.

Respectfully submitted March 17, 2021.

/s/ Daniel V. Carsey

Daniel V. Carsey, SBN 24050386

SD No. 1691607

Attorney-in-Charge

Seth A. Day, Oklahoma Bar No. 20670*

Jared R. Ford, SBN 24117695*

**HALL, ESTILL, HARDWICK,
GABLE, GOLDEN & NELSON, P.C.**

100 North Broadway, Suite 2900

Oklahoma City, OK 73102

Telephone: (405) 553-2313

Facsimile: (405) 553-2855

Email: dcarsey@hallestill.com

sday@hallestill.com

jford@hallestill.com

**Pro Hac Vice Application Forthcoming*

**ATTORNEYS FOR PLAINTIFF,
BRENT C. OXLEY**

CERTIFICATE OF SERVICE

This is to certify that on March 17, 2021, a true and correct copy of the above and foregoing was delivered upon the following:

VIA REGULAR MAIL

Paula L. Zecchini
Cozen O'Conner
999 Third Avenue, Suite 1900
Seattle, WA 98104

**Attorney for Nonparty,
GoDaddy.com, LLC**

VIA FEDEX AND EMAIL

Mr. Puneet Agarwal
B-02 Anand Vihar Railway Colony
Alwar, Rajasthan, India 301001
a.puneet07@gmail.com

Defendant

/s/ Daniel V. Carsey

Daniel V. Carsey