

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ELIZABETH LAUBER, et al.,

Plaintiffs,

Civil Action No.  
09-CV-14345

vs.

HON. MARK A. GOLDSMITH

BELFORD HIGH SCHOOL, et al.,

Defendants.

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**OPINION AND ORDER GRANTING PLAINTIFFS’  
MOTION FOR DEFAULT JUDGMENT ON LIABILITY**

This matter is presently before the Court on Plaintiffs’ motion for default judgment on liability.<sup>1</sup> The pertinent facts are these:

- There are 13 defendants in this case: (1) Belford High School, (2) Belford University, (3) Salem Kureshi, (4) Education Services Provider, Inc., (5) International Accreditation Agency for Online Universities, (6) Universal Council for Online Education Accreditation, (7) Melville P. Crowe, (8) Dan Robertson, (9) Sydney Goldstein, (10) Ken Calvert, (11) William J. McTiernen, (12) Zunch Worldwide, Inc., and (13) Zunch China, Inc.
- The first three defendants – Belford High School, Belford University, and Salem Kureshi (the “Belford Defendants”) – were previously represented by the Miller Law Firm, P.C. On October 24, 2011, the Court granted the motion of the Miller Law Firm, P.C. to withdraw as counsel for the Belford Defendants. See Dkt. 181. In the order, the Court afforded the Belford Defendants 21 days to obtain new counsel. The Court noted that Kureshi could appear pro se, if he desired. He has done so.
- Prior to the entry of the October 24, 2011 order, Kureshi submitted a declaration dated September 14, 2011 (Dkt. 180-1), in which he stated, in relevant part, as follows:

This lawsuit has become cost-prohibitive to continue to defend. As a result, neither Belford nor I will continue to defend this case and, on

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<sup>1</sup> The case has previously been bifurcated, with liability to be tried before damages. See Dkt. 189.

behalf of myself and Belford, I consent to a default being entered against myself and Belford.

- Accordingly, in the October 24, 2011 order entered by the Court, discussed above, the Court entered default against the three Belford Defendants. The order reads, in relevant part:

Based on the declaration of Salem A. Kureshi, dated September 14, 2011, where Belford High School, Belford University, and Salem Kureshi consented to a default being entered against them, a default is hereby entered against Belford High School, Belford University, and Salem Kureshi.

- The Clerk of Court has entered defaults against the remaining defendants in this case (the “Other Defendants”), with the exception of Zunch China, Inc. See Dkts. 19-20, 85-91. By agreement of the parties, Zunch China, Inc. has been dismissed as a party defendant. See Dkt. 201.

In light of these facts, Plaintiffs now ask the Court to enter default judgments on liability against the remaining defendants in this case – both the Belford Defendants and the Other Defendants. Default judgment against the remaining Other Defendants is clearly appropriate, as those defendants were served long ago but never appeared in this case. Default judgment against Belford High School and Belford University is also clearly appropriate; the Court afforded those entities 21 days from October 24, 2011 to retain new counsel, and they have not done so.

The only remaining question is whether default judgment should be entered against Salem Kureshi, who has proceeded pro se since the Court’s issuance of the October 24, 2011 order allowing the Miller Law Firm, P.C. to withdraw as counsel. Kureshi argues that default judgment should not be entered against him for three reasons. First, he argues that he is not in default because the Court has permitted him to appear pro se. The Court rejects this argument; that the Court has allowed Kureshi appear pro se has no bearing on whether default judgment should be entered against him, especially when Kureshi has expressly consented, in a sworn declaration, to entry of default against him.

Second, Kureshi argues that he should be dismissed as a party defendant because Plaintiffs failed to respond to the Court's show cause of February 10, 2012, requiring Plaintiffs to show cause why the Other Defendants should not be dismissed for failure to seek default judgment against them. However, the Court's show cause order did not apply to Kureshi; rather, it applied only to the Other Defendants. Thus, Kureshi's argument here is unpersuasive.

Finally, Kureshi appears to argue that default judgment should not be entered against him because he would not have consented to entry of default through his September 14, 2011 declaration had he known that he could continue defending the case on behalf of himself without counsel. However, this argument ignores the fact that the Court has already entered default against Kureshi, and there is no motion pending to set aside the default. According to a well respected treatise: "The effect of an entry of default, if not set aside, is to establish the liability of the defaulting party as a basis for default judgment. After defaulting, a party has no right to dispute the issue of liability." 10 Moore's Federal Practice § 55.32[1][a] (3d ed.).

Even if the Court were to construe Kureshi's response as a motion to set aside the default, the Court would deny the request. Courts may set aside entry of default "for good cause." Fed. R. Civ. P. 55(c). The "good cause" standard "requires the moving party to provide an explanation for the default or to give reasons why vacation of the default would serve the interests of justice." 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 2696 at 141 (3d ed. 1998). In particular, "courts have required that [a motion to set aside entry of default] be made promptly upon discovery of the default." *Id.* § 2698 at 164. Kureshi claims to have realized back in October 2011 that he could represent himself, see Kureshi Resp. at 1-2 (Dkt. 203); yet he did not promptly move to set aside the entry

of default, and still to this day has not done so. Because Kureshi has not promptly moved to set aside the entry of default against him, the Court would deny any present request for such relief.

For the reasons stated above, Plaintiffs' motion for default judgment on liability is granted. Default judgment is entered against all remaining defendants in this case.

SO ORDERED.

Dated: April 6, 2012  
Flint, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 6, 2012.

s/Deborah J. Goltz  
DEBORAH J. GOLTZ  
Case Manager