

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CV-61332-RAR

CHANEL, INC.,

Plaintiff,

v.

ANALUXURYFASHION, *et al.*,

Defendants.

/

**ORDER DIRECTING CLERK TO ENTER DEFAULT AND REQUIRING
MOTION FOR DEFAULT JUDGMENT OR NOTICE OF JOINT LIABILITY**

THIS CAUSE comes before the Court upon *sua sponte* review of the record. On June 28, 2021, Plaintiff filed its Complaint [ECF No. 1]. On June 29, 2021, Plaintiff filed its *Ex Parte* Motion for Order Authorizing Alternate Service of Process [ECF No. 7] (“Motion for Alternate Service”). The Court entered an Order Granting the Motion for Alternate Service on July 7, 2021 [ECF No. 10]. In accordance with this Order, Plaintiff served each Defendant with a summons and a copy of the Amended Complaint via electronic mail and website posting on July 27, 2021. *See* Certificates of Service [ECF Nos. 22, 26].

Pursuant to Federal Rule of Civil Procedure 12(a), Defendants were required to file a response or answer to Plaintiff’s Complaint by August 17, 2021. To date, there is no indication that Defendants have answered or otherwise responded to the summons and Complaint, nor have Defendants requested an extension of time to do so. On September 9 and 13, the Clerk of Court entered default against Defendants pursuant to Rule 55(a) of the Federal Rules of Civil Procedure [ECF Nos. 33, 35]. Therefore, it is hereby

ORDERED AND ADJUDGED that **within ten (10) days** of this Order, Plaintiffs must file one of the following two responses:

1. Plaintiff shall file a Motion for Default Final Judgment (“Motion”) where:
 - a. There are no allegations of joint and several liability, and no possibility of inconsistent liability between Defendants;¹ **or**
 - b. There are allegations of joint and several liability **and all** named Defendants have defaulted.²

The Motion must include affidavits of any sum certain due by Defendants, and any other supporting documentation necessary to determine Plaintiff’s measure of damages. The Motion shall also be accompanied by (1) the necessary affidavit under the Servicemembers Civil Relief Act, 50 U.S.C. app. section 521(b), if applicable; (2) a memorandum of law supporting entitlement to final judgment; (3) a proposed order; and (4) a proposed final judgment. Pursuant to the CM/ECF Administrative Procedures, the proposed orders **shall be submitted to the Court by e-mail in Word format** at ruiz@flsd.uscourts.gov. **The email subject line must include the case number as follows: XX-CV-XXXX-RAR.** Plaintiff shall send a copy of the Motion to Defendants’ counsel or to Defendants if they do not have counsel. In the certificate of service, Plaintiff shall indicate that notice was sent and the addresses where notice was sent.

If Defendants fail to move to set aside the Clerk’s Default or respond to the Motion within the time permitted by the Rules, default final judgment may be entered, which means that Plaintiff may be able to take Defendants’ property or money, and/or obtain other relief against Defendants.

2. Where fewer than all named Defendants have defaulted **and** there are allegations of joint and several liability, or the possibility of inconsistent liability between Defendants, Plaintiff shall file a *Notice of Joint Liability*. See *Frow v. De La Vega*, 82 U.S. 552, 554 (1872);

¹ Plaintiff must state in the *Motion for Default Final Judgment* that there are no allegations of joint and several liability, and set forth the basis why there is no possibility of inconsistent liability.

² Plaintiff must state in the *Motion for Default Final Judgment* that there are allegations of joint and several liability.

10A Charles Alan Wright and Arthur R. Miller, FEDERAL PRACTICE & PROCEDURE § 2690 (3d ed. 1998) (citing *Frow*, 82 U.S. at 554); *see also Gulf Coast Fans, Inc. v. Midwest Elecs. Imp., Inc.*, 740 F.2d 1499, 1512 (11th Cir. 1984).

The Notice of Joint Liability must briefly describe the allegations and advise the Court of the status of the other Defendants' liability. Once liability is resolved as to *all* Defendants, Plaintiff may move for the entry of default final judgment, as described in (1) above, **no later than fourteen (14) days thereafter**.

Plaintiff's failure to file either a *Motion for Default Final Judgment* or a *Notice of Joint Liability* within the specified time frame will result in a **dismissal without prejudice** and without further notice. Lastly, the Clerk is directed to **CLOSE** this case for administrative purposes only.

DONE AND ORDERED in Fort Lauderdale, Florida, this 28th day of September, 2021.

A handwritten signature in black ink, appearing to read 'Rodolfo A. Ruiz II', is written over a horizontal line.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE