

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-61390-CIV-ALTONAGA/Goodman

GRISEL ALONSO,

Plaintiff,
vs.

VICTOR ELMALEH, *et al.*,

Defendants.

ORDER

THIS CAUSE came before the Court on Plaintiff, Grisel Alonso's Motion to Strike [ECF No. 35], filed October 16, 2017. Plaintiff requests the Court strike Defendants' Answer and Affirmative Defenses [ECF No. 34], filed October 10, 2017. (*See generally* Mot.).

Local Rule 7.1(a)(3) of the United States District Court for the Southern District of Florida provides:

Prior to filing any motion in a civil case, . . . counsel for the movant shall confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. . . . At the end of the motion, and above the signature block, counsel for the moving party *shall certify* [in accordance herewith.]

S.D. FLA. L.R. 7.1(a)(3) (alterations and emphasis added). The Rule further states “[f]ailure to comply . . . may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction” *Id.* (alterations added). Plaintiff's counsel has not certified he conferred or made reasonable efforts to confer with Defendants with regard to the relief sought in the Motion, in accordance with Local Rule 7.1(a)(3). (*See generally* Mot.). Accordingly, the Court must deny the Motion.

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Nevertheless, the Court will *sua sponte* strike Defendants' Answer. It appears *pro se* litigant Victor Elmaleh filed the Answer on behalf of the other Defendants. Victor Elmaleh is not an attorney; thus while he may represent himself *pro se*, he cannot act on behalf of Mercedes Elmaleh or the corporate Defendants. See, e.g., *Weiler v. Stargate Techs., Inc.*, No. 08-81571-CIV, 2009 WL 656251, at *1 (S.D. Fla. Mar. 10, 2009) (striking *pro se* answer filed by individual on behalf of himself and his corporation because "a corporation cannot represent itself or be represented by its owner, and must be represented by counsel." (citations omitted)); *Jacox v. Dep't of Def.*, No. 5:06-cv-182, 2007 WL 118102, at *2 (M.D. Ga. Jan. 10, 2007) ("28 U.S.C. [section] 1654 requires pro se litigants to conduct their own cases personally and does not authorize nonlawyers to conduct cases on behalf of individuals." (alteration added)).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Motion [ECF No. 35] is **DENIED**. Defendants' Answer [ECF No. 34] is nonetheless **STRICKEN**.
2. The October 10, 2017 Order [ECF No. 33] requiring Plaintiff to submit a motion for clerk's default is **SET ASIDE**. Plaintiff shall not file a motion for clerk's entry of default.
3. The corporate Defendants shall retain counsel, and all Defendants shall file separate answers or a collective response to the Complaint [ECF No. 1], by **October 24, 2017**.

DONE AND ORDERED in Miami, Florida, this 17th day of October, 2017.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record
Victor Elmaleh, *pro se*
Mercedes Elmaleh, *pro se*