

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
Ft. Myers Division**

	)	
<b>ACHTE/NEUNTE BOLL KINO</b>	)	
<b>BETEILIGUNGS GMBH &amp; CO KG,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>C.A. <u>2:11-cv-00071-JES-DNF</u></b>
	)	
<b>KIM ZIMMERMAN,</b>	)	
	)	
<b>Defendant.</b>	)	

**REQUEST FOR ENTRY OF DEFAULT AGAINST DEFENDANT**

To the Clerk of this Court and to all interested parties:

Pursuant to Fed. R. Civ. P. Rule 55(a) and Local Rule 1.07(b), Plaintiff requests that the Clerk enter Defendant Kim Zimmerman’s default.

Defendant Zimmerman was personally served with process on February 23, 2011. [See Doc. No. 10] Accordingly, said Defendant was required to serve a responsive pleading by March 16, 2011. See Fed. R. Civ. P. Rule 12(a)(1)(A)(i).

As of the date of this request, no pleading has been filed and none served upon the attorney for the Plaintiff, no extension has been given, and the time for filing has expired. See Affidavit of Jeffrey W. Weaver filed concurrently herewith. While Defendant’s attorney has filed a Notice of Appearance, that filing is only the appearance of the attorney and does not constitute a responsive pleading. See id.; see also Doc. No. 7.

Further, Plaintiff’s counsel has certified, pursuant to the provisions of the Soldiers and Sailors Civil Act of 1940 and the provisions of the Soldiers and Sailors Civil Relief Act

Amendments of 1942 and 1960, that said Defendant is not in the military service of the United States or its Allies, that is to say said Defendant is not a member of the Army of the United States, the United States Navy, the Marine Corps, the Coast Guard and is not an officer of the public Health Service detailed by proper authority for duty either with the Army or Navy, and said Defendant is not on active duty with any branches aforesaid, nor is said Defendant under training or education under the supervision of the United States preliminary to induction in to the military services; and the Defendant is not serving with the forces of any nation with which the United States is allied in the prosecution of any war, nor has said Defendant been ordered to report for induction under the Selective Training and Service Act of 1940, as amended, nor is the Defendant a member of the Enlisted Reserve Corps ordered to report for military service. See Weaver Affidavit. Plaintiff's counsel has also certified that said Defendant is neither an infant nor an incompetent person. Id.

Therefore, Plaintiff respectfully requests that the Clerk enter a Default against Defendant Zimmerman without a hearing.

Respectfully Submitted,

s/ Jeffrey W. Weaver  
Jeffrey W. Weaver  
Florida Bar No. 178780  
Attorney for Plaintiff Achte/Neunte Boll  
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DATED: March 23, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on March 23, 2011, I electronically filed the foregoing REQUEST FOR ENTRY OF DEFAULT AGAINST DEFENDANT with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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