COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO.: 2279CV00232

Thomas Russo,
Plaintiff,

v.

Hector Ramos and Gianfranco Scirocco
Defendants

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PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT GIANFRANCO SCIROCCO

I.   INTRODUCTION

NOW COMES the Plaintiff, Thomas Russo, and moves pursuant to Mass. R. Civ. P. 55(b)(2) that entry of default be made against the Defendant, Gianfranco Scirocco.

II.   FACTS

This cause of action arises out of a dog bite which occurred on September 3, 2021, at 91 N Ramah Circle in Agawam, Massachusetts. The Defendant, Gianfranco Scirocco, was a business tenant located at 81 N Ramah Circle in Agawam, Massachusetts. The Defendants, Gianfranco Scirocco and Hector Ramos, were the owners and/or keepers of the dog. On the above-referenced date, Plaintiff was present in the parking lot located at 91 N Ramah Circle for business purposes after exiting his vehicle. As the Plaintiff walked in the parking lot, he was attacked by a dog, named Pegasus, that was owned and kept by the Defendants, Gianfranco Scirocco and Hector Ramos. As a result of the attack, Mr. Russo sustained multiple lacerations, contusions, and abrasions including but not limited to his left forearm and left lower leg. Mr. Russo also endured pain in his neck, left ankle and foot, and left shoulder, which also contained a tear in his rotator cuff.

III. ARGUMENT

"After service upon him of any pleading requiring a responsive pleading, a party shall serve

such responsive pleading within 20 days unless otherwise directed by order of the court." Mass.

R. Civ. P. 12(a). Here, Plaintiff filed his Return of Service for the Complaint on May 16, 2022.

(Exhibit A). Furthermore, on June 17, 2022, the Plaintiff sent via Certified Mail, a letter to the

Defendant informing him that such an Answer to the Plaintiff's Complaint was outstanding.

(Exhibit B). To date, Plaintiff has not yet received an Answer from the Defendant. This is well

over the 20 days allotted under Rule 12, and the Defendant has not requested additional time

from this Court. Additionally, pursuant to Mass. R. Civ. P. 55(b)(2), the Plaintiff is entitled to an

Entry of Default for the Defendant's failure to answer their Complaint. In this matter, the

damages are not sum certain, and therefore the Plaintiff requests that the Court enter Default.

IV. CONCLUSION

The Defendant, Gianfranco Scirocco, has failed to provide Plaintiff with a responsive

pleading to his Complaint. WHEREFORE, the Plaintiff respectfully requests this Honorable

Court enter default against the Defendant.

Dated: 07/18/2022

Respectfully Submitted,
By his attorneys,

Robert A. DiTusa, Esq., **BBO#: 649218**
Laura D. Mangini, Esq. **BBO#: 684620**
Matthew J. Montano, **BBO#: 703729**
Alekman DiTusa, LLC
1550 Main Street, Suite 401
Springfield, MA 01103
(413) 781-0000
(413) 827-0266 (fax)

CERTIFICATE OF SERVICE

I, Matthew J. Montano, Esq., hereby certify that on this _18th_ day of July 2022, I caused the foregoing Memorandum of Law in Support of Plaintiff's Motion for Entry of Default Against Defendant Gianfranco Scirocco to be served upon the parties to this matter by mailing copies, postage prepaid to:

Gianfranco Scirocco
28 Grant Street
Agawam, MA 01001

_____
Matthew J. Montano, Esq.

EXHIBIT A

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:
TORT - MOTOR VEHICLE TORT - CONTRACT - EQUITABLE RELIEF - OTHER

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION NO.

22 0232

Thomas Russo _____, PLAINTIFF(S)

v.

SUMMONS

Hector Ramos and Gianfranco Sirocco DEFENDANT(S)

To the above named defendant:

You are hereby summoned and required to serve upon Robert A. DiTusa
plaintiff's attorney, whose address is Akkman DiTusa, LLC, 1550 Main Street Suite 401, Springfield MA 01103, an
answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon
you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the
relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the
Clerk of this court at Springfield either before service upon the plaintiff's attorney or within a reasonable time
thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which you
may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the
plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Heidi E. Brieger, Esq., at Springfield the _____ day of _____
in the year of our Lord two thousand

Laura S. Gentile, Esquire
CLERK OF COURTS

NOTES:
1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used
for each defendant, each should be addressed to the particular defendant.

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