

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, PENSACOLA DIVISION

Michael Xydas v. AK89 L.L.C. d/b/a Rock N Roll Sushi

Xydas · No. 3:25-cv-2207-TKW-ZCB · Decided June 1, 2026

SUMMARY

The United States District Court for the Northern District of Florida adopts the magistrate judge’s Report and Recommendation and directs entry of default judgment for Michael Xydas against AK89 L.L.C. d/b/a Rock N Roll Sushi in the amount of \$2,722.70. The court holds that Xydas is entitled to reasonable attorney’s fees and costs under 29 U.S.C. § 216(b), while leaving the amount of fees for later determination. The court also explains that the LLC’s owner could not object on the LLC’s behalf without licensed counsel.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Pensacola Division
WRITING FOR THE COURT	T. Kent Wetherell
JURISDICTION	United States District Court for the Northern District of Florida, Pensacola Division
DECIDED	June 1, 2026
DOCKET	3:25-cv-2207-TKW-ZCB
DISPOSITION	other
PROCEDURAL POSTURE	Order adopting a magistrate judge's Report and Recommendation and directing entry of default judgment against the defendant for \$2,722.70, while determining that the plaintiff is entitled to reasonable attorney's fees and costs under the Fair Labor Standards Act.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's Report and Recommendation and considered whether the letter constituted a valid objection; the order does not state a separate standard of review.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated

TOPICS

- default judgment
- attorney fees
- wage and hour
- flsa
- civil procedure

PRACTICE AREAS

civil procedure

employment law

wage and hour

attorney fees

default judgment

QUESTIONS PRESENTED

1. Whether an LLC's owner who is not a licensed attorney may submit an objection to a magistrate judge's Report and Recommendation on behalf of the LLC.
2. Whether a prevailing plaintiff's entitlement to attorney's fees under 29 U.S.C. § 216(b) may be denied based on the objection submitted by Defendant's former owner.
3. Whether the magistrate judge's Report and Recommendation should be adopted and default judgment entered for \$2,722.70.

HOLDINGS

1. An LLC and other artificial business entities may appear in federal court only through licensed counsel; therefore, the former owner's letter could not be treated as an objection on behalf of Defendant.
2. A prevailing plaintiff's entitlement to an award of reasonable attorney's fees under 29 U.S.C. § 216(b) is mandatory, although the amount of a reasonable fee may in appropriate circumstances be determined to be zero.
3. The magistrate judge's Report and Recommendation was adopted, and the Clerk was directed to enter default judgment awarding Plaintiff \$2,722.70 against Defendant.

KEY QUOTATIONS

“Section 216(b) of the [Fair Labor Standards] Act makes fee awards mandatory for prevailing plaintiffs.” (at 1)

“artificial business entities like LLCs can only appear in federal court through a licensed attorney.” (at 1)

FACTUAL BACKGROUND

The magistrate judge recommended judgment for Plaintiff against Defendant AK89 L.L.C. in the amount of \$2,722.70 and found Plaintiff entitled to reasonable attorney's fees under the Fair Labor Standards Act. Amy Bosen, Defendant's owner and former defendant, submitted a letter attaching a check for \$2,722.70 and requesting that attorney's fees not be assessed against her. Because AK89 was an LLC, the court held that Bosen could not represent it in federal court, and because she was no longer a party, any fee award would run against Defendant rather than her.

PROCEDURAL HISTORY

The magistrate judge issued a Report and Recommendation recommending judgment against Defendant in the amount of \$2,722.70 and finding Plaintiff entitled to reasonable attorney's fees under 29 U.S.C. § 216(b). Defendant's owner and former defendant Amy Bosen submitted a letter and check but was not represented by counsel and was no longer a party. The district court declined to treat the letter as a valid objection on behalf of

the LLC, alternatively overruled the objection concerning attorney's fees, adopted the R&R, and directed entry of default judgment.

DISPOSITION

other

CASES CITED

- Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985)
- Alternative Materials, LLC v. TCH Constr. Grp., Inc., 339 F.R.D. 322, 324 (N.D. Fla. 2021)
- Kreager v. Solomon & Flanagan, P.A., 775 F.2d 1541, 1542 (11th Cir. 1985)
- Shayers v. Prugh, Holliday & Karatinos, P.L., 560 F.3d 1241 (11th Cir. 2009)

OPINION

XYDAS

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF FLORIDA

PENSACOLA DIVISION

MICHAEL XYDAS,

Plaintiff, v. Case No. 3:25-cv-2207-TKW-ZCB AK89 L.L.C. d/b/a Rock N Roll Sushi, Defendant.
/

ORDER

The magistrate judge issued a Report and Recommendation (R&R) (Doc. 24) recommending that judgment be entered against Defendant in the amount of \$2,722.70 and finding that Plaintiff is entitled to an award of reasonable attorney's fees under 29 U.S.C. §216(b). In response to the R&R, Defendant's owner, former defendant Amy Bosen, submitted a letter (Doc. 25) attaching a check made out to Plaintiff in the amount set forth in the R&R1 and requesting that "attorney's fees not be assessed against [her]." Ms. Bosen's letter cannot be treated as an objection to the R&R on behalf of the Defendant because Defendant is an LLC and artificial business entities like LLCs can only appear in federal court through a licensed attorney. See Palazzo v. Gulf Oil 1 The check preemptively satisfies the judgment that will be entered based on the Court's adoption of the R&R in this Order. Corp., 764 F.2d 1381, 1385 (11th Cir. 1985); Alternative Materials, LLC v. TCH Constr. Grp., Inc., 339 F.R.D. 322, 324 (N.D. Fla. 2021); Doc. 21. However, even if Ms. Bosen's letter could be considered as an objection to the R&R's determination that Plaintiff is entitled to an award of reasonable attorney's fees, the objection would be overruled because "Section 216(b) of the [Fair Labor Standards] Act makes fee awards mandatory for prevailing plaintiffs." Kreager v. Solomon & Flanagan, P.A., 775 F.2d 1541, 1542 (11th Cir. 1985) (emphasis added). That said, in determining the amount of the fee award, courts have discretion to determine

that a reasonable fee is \$0 if circumstances warrant. See *Shayers v. Prugh, Holliday & Karatinos*, P.L., 560 F.3d 1241 (11th Cir. 2009). A \$0 fee is the rare exception, rather than the rule, and it premature to determine whether the fee award in this case should be \$0 or something more. That determination will be made by the magistrate judge in the first instance if Plaintiff files a fee motion under Local Rule 54.1(E). Accordingly, it is ORDERED that:

1. The magistrate judge's R&R is adopted and incorporated by reference in this Order.
2. The Clerk shall enter a default judgment stating: Plaintiff, Michael Xydas, shall recover from Defendant, AK89 L.L.C. d/b/a Rock N Roll Sushi, a total of \$2,722.70.
3. Ms. Bosen shall send the check attached to her letter to Plaintiff's attorney if she has not done so already.
4. Plaintiff is the prevailing party in this case and is entitled to recover reasonable attorney's fees and costs from Defendant? under 29 U.S.C. §216(b). Costs will be determined under Local Rule 54.2 and the amount of attorney's fees will be determined under Local Rule 54.1(E)-(G).

5. The Clerk shall send a copy of this Order to Ms. Bosen at the address contained in her letter. DONE AND ORDERED this 1st day of June, 2026. 7 [er ata TM
T.KENT WETHERELL,I

UNITED STATES DISTRICT JUDGE

2 Ms. Bosen's letter requested that fees not be imposed against her, but because she is no longer a party to this case, any fee award will be against Defendant, not her. Page 3 of 3