

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
CIVIL DIVISION**

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

v.

CASE NO.: 50-2021-CA-008718-XXXX-MB

NATIONAL SENIOR INSURANCE, INC.  
D/B/A SEEMAN HOLTZ,  
MARSHAL SEEMAN,  
CENTURION INSURANCE SERVICES  
GROUP, LLC,  
BRIAN J. SCHWARTZ,  
EMERALD ASSETS 2018, LLC,  
INTEGRITY ASSETS 2016, LLC,  
INTEGRITY ASSETS, LLC,  
PARA LONGEVITY 2014-5, LLC,  
PARA LONGEVITY 2015-3, LLC,  
PARA LONGEVITY 2015-5, LLC,  
PARA LONGEVITY 2016-3, LLC,  
PARA LONGEVITY 2016-5, LLC,  
PARA LONGEVITY 2018-3, LLC,  
PARA LONGEVITY 2018-5, LLC,  
PARA LONGEVITY 2019-3, LLC,  
PARA LONGEVITY 2019-5, LLC,  
PARA LONGEVITY 2019-6, LLC,  
PARA LONGEVITY VI, LLC,  
SH GLOBAL, LLC N/K/A PARA LONGEVITY  
V, LLC, ALTRAI GLOBAL, LLC A/K/A ALTRAI  
HOLDINGS, LLC, VALENTINO GLOBAL  
HOLDINGS, LLC, AMERITONIAN ENTERPRISES,  
LLC, SEEMAN-HOLTZ CONSULTING CORP.,  
CENTURION ISG Holdings, LLC,  
CENTURION ISG Holdings II, LLC,  
CENTURION ISG (Europe) Limited,  
CENTURION ISG SERVICES, LLC,  
CENTURION ISG FINANCE GROUP, LLC,  
CENTURION FUNDING SPV I LLC,  
CENTURION FUNDING SPV II LLC,  
GRACE HOLDINGS FINANCIAL, LLC,  
PRIME SHORT TERM CREDIT INC.,

Defendants.

THE ESTATE OF ERIC CHARLES HOLTZ,  
SEEMAN HOLTZ PROPERTY AND CASUALTY, LLC  
F/K/A SEEMAN HOLTZ PROPERTY AND CASUALTY, INC.,  
SHPC HOLDINGS I, LLC,

Relief Defendants.

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**RECEIVER’S MOTION TO STRIKE DEFENDANT  
PETER BECK’S MOTION TO DISMISS**

Daniel J. Stermer, in his capacity as Receiver (the “**Receiver**” or “**Plaintiff**”), files this Motion to Strike Defendant Peter Beck’s (“**Beck**” or “**Defendant**”) Motion to Dismiss Plaintiff’s Original Complaint and Amended Complaint (“**Motion to Dismiss**”), and in support thereof states:

**INTRODUCTION**

Defendant’s Motion to Dismiss must be stricken for the following reasons: (i) a clerk’s default was entered against Beck in a supplemental proceeding styled *Daniel J. Stermer v. Jason Sussman, et al.*, Case No. 2023-CA-015245-XXXA-MB (Fla. 15th Cir. Ct.) (“**Supplemental Action**”); (ii) while Beck is a party to the Supplemental Action, he is a non-party to this lawsuit and lacks standing to request any relief from the Court; and (iii) Beck’s Motion to Dismiss is untimely.

**BACKGROUND**

1. On July 12, 2021, the State of Florida Office of Financial Regulation filed the instant lawsuit against Marshall Seeman, Brian Schwartz, and a myriad of entities arising out of a massive Ponzi scheme that resulted in the loss of more than \$300,000,000.00 to thousands of victims (the “**OFR Enforcement Action**”).

2. Daniel J. Stermer was appointed as Receiver in the OFR Enforcement Action, in part, to facilitate the wind up of certain defendant entities’ affairs, including liquidating assets, disposing of and prosecuting claims, and assisting with litigation against third parties for the benefit of the investors, noteholders, and creditors.

3. In carrying out these duties, the Receiver commenced the Supplemental Action against Jason Sussman seeking damages for fraudulent transfers and unjust enrichment based on his receipt of improper payments from one or more of the Receivership Entities.

4. The Receiver filed an Amended Complaint in the Supplemental Action – the operative pleading – on May 9, 2024, which added eleven additional defendants who also received illegal payments. Beck was one of those defendants.

5. On September 26, 2024, the Receiver moved for entry of a clerk’s default against Beck in the Supplemental Action based on Beck’s failure to file an answer or otherwise respond to the Amended Complaint.

6. On October 1, 2024, Beck filed his Motion to Dismiss in the OFR Enforcement Action.

7. Beck is not – and never has been – a party to the OFR Enforcement Action.

8. On October 2, 2024, a clerk’s default was entered in the Supplemental Action.

### **ARGUMENT**

Florida Rule of Civil Procedure 1.500(a) provides that the clerk may enter default “[w]hen a party against whom relief is sought has failed to file or serve any documents *in the action*[.]” (emphasis added). Here, Beck did not file a responsive pleading or any other document in the Supplemental Action before default was entered against him. Accordingly, the clerk’s default was appropriate, and Beck is precluded from filing anything other than a motion or pleading seeking relief from the default in the Supplemental Action. *See, e.g., Rebolledo v. Cordero*, 217 So. 3d 147, 149 (Fla. 3d DCA 2017) (“By virtue of this default, Wife was precluded from filing anything in the trial court except a motion to have the default lifted . . . [a]ny other purported filings by Wife were a nullity.”); *Paraud v. Suncoast East No. 2, Inc.*, 785 So. 2d 688, 689 (Fla. 3d DCA 2001) (“Because the defendant’s motion to dismiss was filed after the entry of the clerk’s default, the

trial court properly refused to consider it.”); *Rudner v. Cabrera*, 455 So. 2d 1093, 1096 (Fla. 5th DCA 1984) (recognizing that “the Rules of Civil Procedure provide that a party in default may not file pleadings in an action, other than those pleadings as seek relief from the default”).

The fact that Beck filed the Motion to Dismiss in the OFR Enforcement Action does not change this result. This is because Beck is not – and has never been – a party to the OFR Enforcement Action. The Supplemental Action is simply a different “action” under Rule 1.500. Beck therefore lacks standing to seek relief from this Court and filed the Motion to Dismiss without authorization in an entirely different lawsuit. *See Giuffre v. Edwards*, 226 So. 3d 1034, 1039 (Fla. 4th DCA 2017) (“Persons who are not parties of record to a suit have no standing therein which will enable them to take part in or control the proceedings.”) (quoting *Warshaw–Seattle, Inc. v. Clark*, 85 So.2d 623, 625 (Fla. 1955)); *Merrick Park, LLC v. Garcia*, 299 So. 3d 1096, (Fla. 3d DCA 2019) (“Pleadings filed without authorization are appropriately stricken because non-parties do not have standing to request relief from a court.”).

Moreover, Beck’s counsel – through his representation of another defendant in the Supplemental Action – was aware of the distinction between the OFR Enforcement Action and the Supplemental Action. Indeed, this issue was briefed in the Receiver’s Response in Opposition to Richard Donoff’s Motion for Reconsideration of Approval of Settlement and Agreed Final Order Against Defendant. *See* D.E. 391 at p.12 (explaining that “Donoff filed his Motion in the wrong case.”). Despite this, Beck failed to file anything in the Supplemental Action. Instead, Beck’s Motion to Dismiss improperly altered the caption to list Beck as a defendant in the OFR Enforcement Action, which is demonstrably false and misleading to this Court.

Finally, Beck’s Motion to Dismiss is untimely. “While Rule 1.500(c) permits a defendant to prevent default by the filing of a late answer on the eve of the default hearing, the existence of this rule does not supplant the requirement of Florida Rule of Civil Procedure 1.140 that an answer

be filed within twenty days from the service of the summons and complaint.” *Miami Steel Traders, Inc. v. Ryder Truck Lines, Inc.*, 401 So. 2d 1146, 1147 (Fla. 3d DCA 1981); *see also Haitian Cmty. Flamingo Auto Parts Corp. v. Landmark First Nat. Bank of Ft. Lauderdale*, 501 So. 2d 170 (Fla. 3d DCA 1987) (noting Rule 1.500 “does not preclude the imposition of sanctions other than default for dilatory conduct.”); *City of Kissimmee v. Patterson*, 67 So. 2d 223, 224 (Fla. 1953) (finding defendant’s motion to dismiss was untimely and therefore defendant waived all defenses and objections relating to venue or personal jurisdiction that could have been raised in a timely filed motion).

### **CONCLUSION**

Beck’s Motion to Dismiss should be stricken because: (i) default was entered in the Supplemental Action; (ii) Beck has no standing to seek relief in the OFR Enforcement Action; and (iii) the Motion to Dismiss is untimely.

Notwithstanding, the Receiver would not oppose Beck filing a motion seeking relief from the default entered in the Supplemental Action so that matter could be adjudicated on its merits.<sup>1</sup> But Beck’s Motion to Dismiss needs to be stricken from the instant case. Any litigation relating to the Supplemental Action must occur in the Supplement Action – not the OFR Enforcement Action where Beck is a nonparty.

**WHEREFORE**, the Receiver respectfully requests the Court enter an order striking

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<sup>1</sup> In fact, a proposed stipulation regarding same has been exchanged but not yet finalized or agreed to in final form.

Beck's Motion to Dismiss, and providing such other relief as justice requires.

Dated: November 8, 2024

Respectfully submitted,

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By: /s/ Gavin C. Gaukroger

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on November 8, 2024, a true and correct copy of the foregoing was filed using the Florida E-filing Portal, which will serve electronic notice upon all parties on the attached Service List.

**I FURTHER CERTIFY** that on November 8, 2024, a true and correct copy of the foregoing was served by upon all parties in the Supplemental Action identified on the attached Supplemental Action Service List, in the manner indicated.

By: /s/ Gavin C. Gaukroger  
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