

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

SCHNITZER SOUTHEAST, L.L.C., )  
a/k/a Regional Recycling, L.L.C., )  
  )  
**Plaintiff,**                          )  
  )  
  )  
vs.                                    ) **CV 08-B-2216-S**  
  )  
  )  
UNITED WHEEL INDUSTRIES, L.L.C., )  
  )  
  )  
**Defendant.**                          )

**FINDINGS AND CONCLUSIONS**

This case is before the court on plaintiff's Motion for Entry of Default Judgment. (Doc. 7.)<sup>1</sup> Pursuant to Rule 55, Federal Rules of Civil Procedure, the court makes the following findings and conclusions:

1. Plaintiff properly served the Summons and Complaint upon defendant on December 2, 2008. To date, defendant has failed to appear, plead, or otherwise defend.

2. The Affidavit of Ralph K. Strawn, plaintiff's counsel, states, upon information and belief, that defendant is not an infant or incompetent person, and he is not in the military.

(Doc. 7, Att. ¶¶ 6-7.)

3. In their well-pleaded Complaint, plaintiff allege that defendant owes it \$224,101.05 on an open account for goods sold and delivered. (Doc. 1.) Because defendant has failed

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<sup>1</sup>Reference to a document number, ["Doc. \_\_\_\_"], refers to the number assigned to each document as it is filed in the court's record.

to defend against these allegations and is in default, the court finds that it has admitted such facts and its liability is established. *See Nishimatsu Const. Co., Ltd. v. Houston Nat. Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975),<sup>2</sup> cited in *Cotton v. Massachusetts Mut. Life Ins. Co.*, 402 F.3d 1267, 1278 (11th Cir. 2005).

4. Plaintiff claims \$224,101.05. A judgment in favor of plaintiff and against defendant for the sum of \$224,101.05 will be entered contemporaneously with these Findings and Conclusions.

The Clerk of the Court is **DIRECTED** to serve defendant with a copy of these Findings and Conclusions at the following address:

United Wheel Industries  
c/o Bruce W. Nichols, Registered Agent  
327 Industrial Park Road  
Sweetwater, Tennessee 37874

**DONE**, this the 31st day of August, 2009.

  
\_\_\_\_\_  
SHARON LOVELACE BLACKBURN  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>2</sup>Decisions of the former Fifth Circuit Court of Appeals rendered prior to October 1, 1981, constitute binding precedent in the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (en banc).