

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. ~~04-80669~~-CIV-ZLOCH/SNOW**

FILED BY: \_\_\_\_\_ D C

2004 AUG 26 PM 12:39

CLERK OF DISTRICT COURT  
S.D. OF FL -FTL

STEWART GREENBERG

Plaintiff, pro se

vs.

ELAINE T. GREENBERG,  
THE HONORABLE JEFFREY COLBATH, and  
FIFTEENTH JUDICIAL CIRCUIT COURT OF FLORIDA, THE HONORABLE  
EDWARD FINE, Chief Judge.

Defendants

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**PLAINTIFF'S MOTION AND MEMORANDUM OF LAW FOR JUDGEMENT BY  
DEFAULT**

Plaintiff moves this Court for Entry of Default and Judgement by Default against Defendant, Fifteenth Judicial Circuit of Florida, The Hon. Edward Fine, Chief Judge, pursuant to Federal Rule of Civil Procedure Rule 55 (a) and Rule 12 (a) (1), i.e. failure to timely file an answer or reply.

1. On July 16, 2004, Plaintiff removed Florida Fifteenth Circuit Court case Number CD 98-9754 FZ to this court and motioned for injunctive relief..
2. On July 16, 2004 Plaintiff named third party defendants to the removed state

action.

3. On July 16, 2004, Plaintiff Filed a Notice of Removal and paid the appropriate fees to this court.
4. On July 23, 2004, Plaintiff had served, by a certified process server, on the Honorable Edward Fine the Verified Complaint Motion for Injunctive Relief and Notice of Removal as well as the Notice of Filing Notice of Removal, summons, requiring an answer within 20 days. (Exhibit A)
5. The defendant, the Honorable Edward Fine has not responded to the summons.

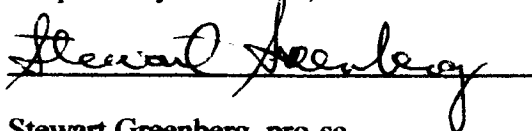
### **MEMORANDUM OF LAW**

#### **Argument**

The Defendant has not complied with Rule 12(a)(1) and Rule 55 of the Federal Rules of Civil Procedure. The Defendant had ample notice and opportunity to answer the Plaintiff's properly served verified complaint.

WHEREFORE for the above stated reasons the Plaintiff requests this Court to enter a Judgement by Default.

Respectfully submitted,



Stewart Greenberg, pro-se  
958 Eve St.  
Delray Beach, FL 33483  
561-306-3612

Dated: August 26, 2004

## **CERTIFICATE OF SERVICE**

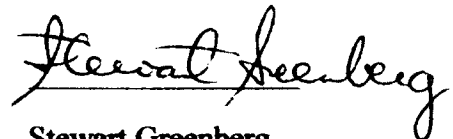
I hereby certify that on the 26th day of August, 2004, I caused a true and accurate copy of the foregoing to be sent by U.S. Mail to,

The Honorable Edward Fine, Chief Judge  
Fifteenth Judicial Circuit Court  
Palm Beach County Courthouse  
205 North Dixie Highway  
West Palm Beach, Fl. 33401  
[FIRST CLASS MAIL]

Elaine Greenberg  
4283 N.W. 65th Rd.  
Boca Raton, FL 33496  
[First Class Mail]]

Valerie J.Martin, Assistant State Attorney  
Office of the Attorney General  
110 SE 6th Street, 10th Floor  
Fort Lauderdale Florida 33301  
[FIRST CLASS MAIL]

Dated August 26, 2004



Stewart Greenberg  
958 Eve St.  
Delray Beach, FL 33483  
561-306-3612

# RETURN OF SERVICE

Case No: **04-80669 CIV ZLOCH**

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**TO BE SERVED**

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THE HONORABLE EDWARD FINE  
205 NORTH DIXIE HIGHWAY  
WEST PALM BEACH, FLORIDA

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**STYLE**

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STEWART GREENBERG  
VS.  
THE HONORABLE JEFFREY COLBATH

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**SERVED FOR**

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STEWART GREENBERG  
958 EVE STREET  
DELRAY BEACH, FLORIDA, 33483

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**COURT**

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IN THE UNITED STATES DISTRICT COURT, IN AND FOR  
THE SOUTHERN DISTRICT OF FLORIDA

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**WRIT**

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SUMMONS IN A CIVIL ACTION

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**INFORMATION**

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Court Date: \_\_\_\_\_ Court Time: \_\_\_\_\_  
Witness Fee: \_\_\_\_\_  
Document Type: Original  
Atty File # \_\_\_\_\_

I received this process 07/19/04 at 12:50 PM and it was served 07/23/04 at 11:35 AM in PALM BEACH COUNTY, FLORIDA.

THE HONORABLE EDWARD FINE  
205 NORTH DIXIE HIGHWAY  
WEST PALM BEACH, FLORIDA, 33401

**INDIVIDUAL SERVICE: (FS 48.031)**

By delivering to the within named person a copy of SUMMONS IN A CIVIL ACTION the date and hour of service endorsed by me, and at the same time delivering to the within named person a copy of the complaint, petition or initial pleading as furnished by the plaintiff or petitioner.

**OTHER RETURNS:**

MOTION FOR INJUNCTIVE RELIEF AND NOTICE OF REMOVAL, ORDER ON FORMER WIFE'S MOTION FOR CIVIL CONTEMPT, NOTICE OF FILING NOTICE OF REMOVAL

Under penalty of perjury, I declare that I have read the foregoing and that the facts stated in it are true, that I am a Certified Process Server/Sheriff Appointed in the circuit in which this defendant was served and have no interest in the above action pursuant to F.S. 92.525(2).

I hereby certify that I am not a party to the above action, am over 18 years of age, that the above affidavit is true and correct, and that service was made in accordance with Rule 1.410(C) Florida R.C.P., and Rule 45 Federal R.C.P., and Rule 4(C), 50 U.S.C., and section 520 Et. Seq.

The foregoing instrument was acknowledged before me this 02 day of August, 2004 BY SUSAN UPTHEGROVE, who is personally known to me, or who was produced a D/L as identification and who DID take an oath.

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PROCESS SERVER: SUSAN UPTHEGROVE (36)  
CAPLAN, CAPLAN AND KAYE (305) 374-3426  
CPS Number: 01157092-001

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NOTARY PUBLIC OR PUBLIC OFFICER  
AND TITLE OR RANK / CCN

*Susan Upthegrove*