

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BLAKE VINCENT KELLEY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civ. No. 24-659-GBW
	:	
ROYAL INDUSTRIES	:	
INTERNATIONAL, LLC,	:	
	:	
Defendant.	:	

**MEMORANDUM ORDER**

At Wilmington, this 13th day of September 2024;

Defendant appears to have waived service of a summons in this action on or about June 3, 2024. (D.I. 3.) Accordingly, Defendant’s answer to the Complaint was due on August 2, 2024. To date, however, counsel for Defendant has not entered an appearance in this matter or filed a response. *See* Fed. R. Civ. P. 12(a)(1)(A). Despite this, Plaintiff has failed to seek entry of default in a manner consistent with the Federal Rules of Civil Procedure.

Although courts grant *pro se* plaintiffs leniency in considering their filings, *pro se* plaintiffs are nevertheless expected to “follow the rules of procedure and the substantive law[.]” *Thompson v. Target Stores*, 501 F. Supp. 2d 601, 603 (D. Del. 2007); *see also Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 245, 58 V.I. 691 (3d Cir. 2013) (noting that “*pro se* litigants must . . . abide by the same rules that apply to all other litigants.”).

A plaintiff fails to prosecute his case when he does not seek a default against a non-responsive defendant. *See Park v. Ingersoll-Rand Co.*, 380 F. App’x 190 (3d Cir. 2010) (affirming district court’s *sua sponte* dismissal for failure to prosecute when plaintiff did not seek default against non-responsive defendants). Pursuant to Federal Rule of Civil Procedure 41(b),

and Local Rule 41.1, when a plaintiff fails to prosecute his case, it may be dismissed *sua sponte*. See *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629 (1962); *Donnelly v. JohnsManville Sales Corp.*, 677 F.2d 339, 341 (3d Cir. 1982) (“The rule does not explicitly provide for *sua sponte* dismissals by the court, but we believed that it is broad enough to authorize such dismissals on the same basis as it authorizes dismissals upon motion of the defendant.”).

Now therefore, IT IS HEREBY ORDERED that Plaintiff must prosecute his case or otherwise show cause why it should not be dismissed for failure to prosecute, on or before 14th day of October 2024;

IT IS FURTHER ORDERED that Plaintiff’s motion for approval of confession of judgment and request for equitable relief (D.I. 4) and corrected motion for approval of confession of judgment and request for equitable relief (D.I. 13) are **DENIED**.



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The Honorable Gregory B. Williams  
United States District Judge