

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 15-51168
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2016

Lyle W. Cayce
Clerk

JOHN DEUTSH,

Plaintiff - Appellant

v.

RICHARD WATSON INSURANCE AGENCY, INCORPORATED,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC 1:15-CV-413

Before WIENER, HIGGINSON, and COSTA, Circuit Judges.

PER CURIAM:*

John Deutsh, who uses a wheelchair for mobility, alleges that he tried to visit Richard Watson Insurance Company's place of business, but was unable to do so because there was no wheelchair accessible parking or ramp. He then brought this lawsuit against the company for violating accessibility requirements under Title III of the American Disabilities Act. After the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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insurance company failed to respond to Deutsh's suit, Deutsh filed a motion for entry of default judgment. The district court denied the motion—without prejudice—because it determined that Deutsh had not shown he was entitled to injunctive relief, which is the only relief available to him under the statute. 42 U.S.C.A. § 12188; *Perez v. Doctors Hosp. at Renaissance, Ltd.*, 624 F. App'x 180, 183 (5th Cir. 2015) (per curiam).

This court is required to determine the basis for jurisdiction, even when the parties have failed to do so. *Muse v. Aranda*, 263 F.3d 164, at *1 (5th Cir. 2001) (per curiam). We lack jurisdiction to review the denial of Deutsh's motion for the entry of default judgment. *See Adult Film Ass'n of Am., Inc. v. Thetford*, 776 F.2d 113, 115 (5th Cir. 1985) (per curiam) (holding that a denial of a default judgment without final judgment on the merits is not an appealable final order); *Muse*, 263 F.3d at *1 (the same). This case is still live in district court, however, and Deutsh may file another motion for default judgment explaining why he is entitled to injunctive relief under the statute.

The appeal is therefore **DISMISSED FOR LACK OF JURISDICTION**.