

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>AM/NS CALVERT LLC, etc.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION 14-0310-WS-B</b>
	)	
<b>PSL, LTD.,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

The plaintiff has filed an application for entry of default. (Doc. 11). “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend,” it is subject to entry of default. Fed. R. Civ. P. 55(a). But a defendant is under no obligation to plead or otherwise defend until and unless it is “served with the summons and complaint.” *Id.* Rule 12(a)(1)(A)(i); accord *Securities and Exchange Commission v. Wright*, 261 Fed. Appx. 259, 261 (11<sup>th</sup> Cir. 2008). Thus, “[b]efore a default can be entered, ... the party must have been effectively served with process.” 10 Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 2682 at 14 (3<sup>rd</sup> ed. 1998). And when service of process is at issue, “it [i]s proper for the court rather than the clerk to consider [the plaintiff’s] request” for entry of default. *Sandoval v. Bluegrass Regional Mental Health – Mental Retardation Board*, 2000 WL 1257040 at \*5 (6<sup>th</sup> Cir. 2000).

The defendant is an Indian corporation with its principal place of business in Mumbai. (Doc. 1, ¶ 3). The plaintiff attempted service pursuant to the Hague Convention. (Doc. 7). This is a relatively complex form of service, and the Court cannot determine from the plaintiff’s one-sentence treatment of the issue, (Doc.

11-1, ¶ 3), that its requirements have been met.<sup>1</sup> Accordingly, the application for entry of default, construed as a motion for such relief, is **denied** without prejudice to the plaintiff's ability to file a properly supported motion.

DONE and ORDERED this 2<sup>nd</sup> day of February, 2015.

s/ WILLIAM H. STEELE  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The plaintiff neither identifies the requirements of service under the Hague Convention nor explains how the documents to which it cites, (Doc. 8), establish that those requirements have been satisfied.