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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Don Addington, et al.,

Plaintiffs,

vs.

US Airline Pilots Ass'n, et al.

Defendants.

No. CV-13-00471-PHX-PGR

ORDER

Pending before the Court is Plaintiffs' Motion for Entry of Default Judgment by the Court Pursuant to Rule 55(b)(2), filed April 8, 2013, wherein the plaintiffs seek default judgment against defendant US Airline Pilots Ass'n ("USAPA") for its alleged failure to timely respond to the complaint. Having reviewed the motion, the Court finds that it should be summarily denied.

First, the motion is procedurally improper. There is a two-step procedure under Fed.R.Civ.P. 55 for obtaining a default judgment that the plaintiffs have inexplicably failed to follow. Under that procedure, the plaintiffs may not seek the entry of a default judgment from the Court pursuant to Rule 55(b)(2) without first seeking through a separate application, and obtaining, the entry of default from the Clerk of the Court pursuant to Rule 55(a). Although the plaintiffs state that

1 the declaration of their counsel filed with their motion “establishes the procedural
2 elements required by Fed.R.Civ.P. 55(b)(2)[,]” the declaration does nothing to
3 establish that the plaintiffs have complied with Rule 55(a), nor does anything else
4 in the record.

5 Second, the motion is improper because the Court concludes that USAPA
6 is not in any case currently in default. According to the plaintiffs, USAPA had to
7 answer or otherwise respond to the complaint by April 4, 2013, but USAPA timely
8 filed a motion on March 22, 2013 seeking an extension of time to answer or
9 otherwise respond to the complaint until May 6, 2013 and that motion is currently
10 pending. The timely filing of that motion stays USAPA’s answer date until such
11 time as the Court provides in its resolution of the motion. Therefore,

12 IT IS ORDERED that Plaintiffs’ Motion for Entry of Default Judgment by the
13 Court Pursuant to Rule 55(b)(2) (Doc. 34) is denied.

14 IT IS FURTHER ORDERED that US Airline Pilots Association’s Motion for
15 Extension of Time to File Response to Plaintiff’s Motion to Transfer Case and to
16 Answer or Otherwise Move With Respect to the Complaint (Doc.9) is granted to
17 the extent that defendant US Airline Pilots Association shall answer or otherwise
18 respond to the complaint no later than April 22, 2013.¹

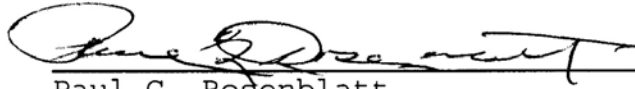
19 IT IS FURTHER ORDERED that all future documents filed in this action
20 must be captioned according to the party capitalization requirement of LRCiv
21 7.1(a)(3) (“Party names must be capitalized using proper upper and lower case
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25 The Court deems USAPA’s response to the plaintiffs’ motion to
26 transfer, which it filed on April 5, 2013, to have been timely filed since the Court
would have granted it an extension until April 22, 2013 to file its response.

1 type.”)

2 DATED this 9th day of April, 2013.

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5 Paul G. Rosenblatt
6 United States District Judge
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