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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Gale Lawrence Webb,

10 Plaintiff,

11 v.

12 City of Tempe,

13 Defendant.  
14

No. CV16-3136 PHX-DGC

**ORDER**

15 Pro se Plaintiff Gale Lawrence Webb has filed a second motion for default  
16 judgment. Doc. 11. Plaintiff has also filed a document titled “Motion to Amend Initial  
17 Complaint Absent Required Summons with the Required Raised Seal.” Doc. 12. The  
18 second document appears to be yet another motion for default judgment. The Court will  
19 deny the motions for the reasons set forth in this order.

20 It appears from the Court docket that Plaintiff served the City of Tempe on  
21 September 21, 2016 with the document that purports to be his complaint in this case  
22 (Doc. 1). “A state, a municipal corporation, or any other state-created governmental  
23 organization that is subject to suit must be served by: (A) delivering a copy of the  
24 summons and of the complaint to its chief executive officer[.]” Fed. R. Civ. P. 4(j)(2).  
25 The certificate of service filed by Plaintiff does not indicate a summons was served on  
26 the City of Tempe. Doc. 3. The City of Tempe’s limited appearance response to  
27 Plaintiff’s previous motion for default judgment (Doc. 10) confirms that the City was not  
28 served with a summons as required by Rule 4.

1 In addition, as the Court has already advised Plaintiff in this case (Doc. 9),  
2 obtaining default judgment under Rule 55 is a two-step process. First, the Clerk must  
3 enter the non-appearing party's default under Rule 55(a). Once the party's default has  
4 been entered, either the Clerk or the Court enters default judgment under Rule 55(b). *See*  
5 *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986) (discussing two-step process under  
6 Rule 55). In this case, the Clerk has not entered Defendant's default under Rule 55(a).

7 Plaintiff must become familiar with, and follow, the Federal Rules of Civil  
8 Procedure and the Rules of the United States District Court for the District of Arizona  
9 ("Local Rules") and the Federal Rules of Civil Procedure. *See King v. Atiyeh*, 814 F.2d  
10 565, 567 (9th Cir. 1986) ("Pro se litigants must follow the same rules of procedure that  
11 govern other litigants."); *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986) (pro se  
12 litigants "should not be treated more favorably than parties with attorneys of record");  
13 *Carter v. Comm'r of Internal Revenue*, 784 F.2d 1006, 1008 (9th Cir. 1986) ("Although  
14 pro se, [plaintiff] is expected to abide by the rules of the court in which he litigates."). A  
15 handbook for unrepresented litigants is now available on the Court's website. Plaintiff is  
16 warned that the Court will dismiss this action if he fails to comply with relevant rules and  
17 the Court's orders. Plaintiff is familiar with this fact, as a review of the Court's CMECF  
18 system shows that he has filed at least 13 other lawsuits in this Court.

19 **IT IS ORDERED:**

- 20 1. Plaintiff's second motion for default judgment (Doc. 11) is **denied**.
- 21 2. Plaintiff's motion to amend initial complaint absent required summons with  
22 the required raised seal (Doc. 12) is **denied**.
- 23 3. Plaintiff shall have until **February 24, 2017** to properly serve Defendant  
24 City of Tempe with a summons and complaint in this case.

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4. Directing the Clerk of the Court to **terminate** this matter if Plaintiff fails to properly serve Defendant in this matter on or before **February 24, 2017**.

Dated this 30th day of January, 2017.



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David G. Campbell  
United States District Judge