

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
BATESVILLE DIVISION**

**THOMAS IVY and CAROL IVY,  
husband and wife**

**PLAINTIFFS**

**v.**

**Case NO. 1:11-cv-034-KGB**

**STACEY AVEY, individually and in his capacity as County  
Judge for Stone County, Arkansas; DAN BROWN and  
BETTY BROWN, husband and wife; and STONE COUNTY,  
ARKANSAS**

**DEFENDANTS**

**ORDER**

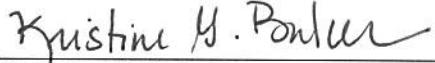
Before the Court is plaintiffs Thomas and Carol Ivy's Application for Default Judgment (Dkt. No. 15). Plaintiffs have settled and dismissed their claims against separate defendants Stone County, Arkansas, and Stacey Avey, individually and in his capacity as County Judge for Stone County, Arkansas. Plaintiffs allege that Dan Brown and Betty Brown are in default.

Rule 55 of the Federal Rules of Civil Procedure contemplates a two-step process for the entry of default judgments. *Fraserside IP L.L.C. v. Youngtek Solutions Ltd.*, 796 F. Supp. 2d 946, 951 (N.D. Iowa 2011) (citation and internal quotation marks omitted). First, pursuant to Rule 55(a), the party seeking a default judgment must have the clerk of court enter the default by submitting the required proof that the opposing party has failed to plead or otherwise defend. *Id.* Second, pursuant to Rule 55(b), the moving party may seek entry of judgment on the default under either subdivision (b)(1) or (b)(2) of the rule. *Id.* Entry of default under Rule 55(a) must precede a grant of default judgment under Rule 55(b). *Id.*

Here, the Court construes plaintiffs' Application for Default Judgment as one for entry of default by the clerk of court and for entry of default by this Court. Accordingly, the Court hereby refers the motion to the clerk of court for consideration. In the event that a clerk's default

is entered, the Court directs that the motion not be termed. If a clerk's default is entered, the Court will consider the motion for default judgment and request for a hearing pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

SO ORDERED this the 15 day of August, 2012.

  
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Kristine G. Baker  
United States District Judge