

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

BMO HARRIS BANK N.A.

PLAINTIFF

v.

Case No. 2:17-cv-00149-KGB

**RICHLAND EXPRESS, INC.,
and FRED WEATHERLY**

DEFENDANTS

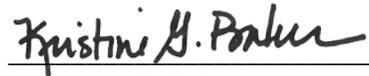
ORDER

Before the Court is plaintiff BMO Harris Bank, N.A. (“BMO”)’s request for clerk’s entry of default pursuant to Rule 55 of the Federal Rules of Civil Procedure (Dkt. No. 4). 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.*

To consider a motion for default under Rule 55(a), the clerk requires an affidavit or affirmation setting forth proof of service, including the date thereof; a statement that no responsive pleading has been received within the time limit set by the Federal Rules of Civil Procedure or as fixed by the Court; and a statement that the defendant against whom default is sought is not in military service, as required by 50 App. U.S.C. § 521. Because the Court determines that BMO has failed to submit an affidavit or affirmation addressing these requirements so as to permit the clerk to consider its motion for default under Rule 55(a), the Court denies without prejudice

BMOS's motion for default judgment (Dkt. No. 4). BMO may refile the motion with an appropriate affidavit or affirmation.

It is so ordered, this the 19th day of October 2017.



Kristine G. Baker
United States District Judge