

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**LOCAL UNION NO. 155 UNITED  
ASSOCIATION OF JOURNEYMEN  
AND APPRENTICES OF THE PLUMBING  
AND PIPEFITTING INDUSTRY OF THE  
UNITED STATES AND CANADA; LOCAL  
UNION 155, as successor to Local Union 454  
United Association of Journeymen and  
Apprentices of the Plumbing and Pipefitting  
Industry of the United States and Canada;  
MECHANICAL CONTRACTORS  
ASSOCIATION OF ARKANSAS, INC.;  
THE LOCAL UNION 155 UNITED  
ASSOCIATION OF JOURNEYMEN AND  
APPRENTICES OF THE UNITED STATES  
AND CANADA HEALTH AND WELFARE  
TRUST; MATT FAIR, Chairman; JIM RYAN,  
TONY ELLIS, SHELBY SMITH, MORRIS  
SMITH, JO KINLEY, in their capacities as members  
of Local 155 Health and Welfare Trust; and THE  
GREATER LITTLE ROCK AREA JOINT  
APPRENTICESHIP COMMITTEE**

**PLAINTIFFS**

**v.**

**CASE NO. 4:08-CV-00170 BSM**

**C. DEAN BAILEY, individually; and AMERICAN HVAC  
SERVICES, INC.**

**DEFENDANTS**

**ORDER**

Presently before the court is plaintiff's motion for default judgment. The court will treat the motion as a motion for a Clerk's default pursuant to Federal Rule of Civil Procedure 55(a).

Federal Rule of Civil Procedure 55 contemplates a two-step process for the entry of default judgments. First, pursuant to Rule 55(a), the party seeking a default judgment must

have the Clerk enter the default by submitting the required proof that the opposing party has failed to plead or otherwise defend. 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. *See Dahl v. Kanawha Inv. Holding Co.*, 161 F.R.D. 673, 683 (N.D. Iowa 1995).

“Entry of default under Rule 55(a) must precede grant of a default judgment under Rule 55(b).” *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 783 (8th Cir. 1998). *See also Hagen v. Sisseton-Wahpeton Community College*, 205 F.3d 1040, 1042 (8th Cir. 2000). In this case, there has been no entry of default. In the event a clerk’s default is entered, plaintiff will have to seek a default judgment as provided for in Fed. R. Civ. P. 55(b).

Accordingly, the court will construe plaintiff’s motion for default judgment (Doc. No. 5) as a motion for Clerk’s entry of default. The motion is referred to the Clerk of the Court for consideration of entry of a Clerk’s default.

IT IS SO ORDERED this 24<sup>th</sup> day of November, 2008.

  
UNITED STATES DISTRICT JUDGE