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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLOTTA OGUNDIMO,

Plaintiff,

v.

Steadfast Property & Development,
et al,

Defendant.

1:09-CV-00231-OWW-SKO

MEMORANDUM DECISION AND
ORDER ON PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT (Doc.
92)

I. INTRODUCTION

On February 26, 2010, Plaintiff Carlotta Ogundimo moved for default judgment against Defendant Steadfast Park West, L.P.¹ According to Plaintiff, default judgment is appropriate because Steadfast failed to submit certain documentation to Plaintiff by February 17, 2010:

During February 1, 2010 Preliminary Injunction Hearing, Judge Wanger ordered the Defendants to SUBMIT ALL DOCUMENTS due to the Plaintiffs by February 17, 2010 [...]

Defendants argued that Plaintiff did not send them papers but Plaintiff was not ordered by the court to give Defendants any papers. If the papers are Work Orders the Defendants council [sic] could have gotten them from his client himself.

¹ Defendant Stadfast Park West, L.P., was erroneously sued as "Steadfast Property & Development."

1 Therefore, it leaves no excuse for the Defendant not
2 to have followed Judges Order of the Court.
3 Plaintiffs move the court for a default judgment
4 against Defendants Steadfast.

5 (Doc. 92, pg. 1) (emphasis in original).

6 Plaintiff's document is properly considered as a motion for
7 default judgment brought pursuant to Rule 55 of the Federal Rules
8 of Civil Procedure.

9 II. DISCUSSION

10 Plaintiff Carlotta Ogundimo is proceeding *pro se* and in forma
11 pauperis with an action for damages and other relief concerning
12 alleged civil rights violations. According to the complaint, filed
13 February 5, 2009, Plaintiff and her minor children, who reside at
14 2655 West Alamos, Unit 118, Fresno, California, suffered housing
15 discrimination in violation of the Fair Housing Act ("FHA").

16 On February 26, 2010, Plaintiff filed a document entitled
17 "Plaintiff's Motion To Move For Default Judgment Against
18 Defendants." (Doc. 92.) Plaintiff seeks default judgment on
19 grounds that Steadfast disobeyed a Court order requiring it to
20 submit work orders and other documentation to Plaintiff by February
21 17, 2010.

22 To obtain a default judgment under Rule 55 of Federal Rules of
23 Civil Procedure, a party must follow a sequential two-step process:
24 (1) obtain entry of default from the Clerk of the Court pursuant to
25 Rule 55(a); and (2) move the Court for a default judgment in
26 accordance with Rule 55(b). See *Eitel v. McCool*, 782 F.2d 1470,
27 1471 (9th Cir. 1986) (discussing this two-step process). Rule
28 55(a) states that "[w]hen a party against whom a judgment for

1 affirmative relief is sought has failed to plead or otherwise
2 defend [...] the clerk must enter the party's default." Fed. R.
3 Civ. P. 55(a). Default judgment is generally disfavored, and a
4 court should, whenever possible, decide a case on the merits.
5 *Cnty. Dental Serv. v. Tani*, 282 F.3d 1164, 1170 (9th Cir. 2002).

6 Plaintiff filed her motion for entry of default after
7 Defendant filed its Answer, which was filed on June 19, 2009.
8 (Doc. 31.) Defendant did not fail to plead, and therefore,
9 Plaintiff's subsequent motion default judgment is improper.
10 Moreover, Plaintiff did not comply with the procedural requirements
11 laid out in Rule 55. Plaintiff failed to seek entry of default
12 from the Clerk of Court prior to moving for a default judgment.
13 Rather, Plaintiff asks the Court to enter default judgment against
14 Defendant Steadfast. However, this is not the process detailed in
15 Rule 55. A default or default judgment under these circumstances
16 is inappropriate and outside the scope of the federal rules of
17 civil procedure. For these reasons, Plaintiff's motion is DENIED.

18
19 **III. CONCLUSION**

20 For the reasons stated:

21 (1) Plaintiff Carlotta Ogundimo's motion for default judgment
22 against Defendant Steadfast Park West, L.P., is DENIED.

23 IT IS SO ORDERED.

24 **Dated: April 23, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE