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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

COREY TAYLOR; JOTASHA TAYLOR,)	1:10cv01138 OWW DLB
)	
Plaintiffs,)	ORDER DENYING MOTION FOR DEFAULT
)	(Document 64)
v.)	
WALMART, INC.,)	
)	
Defendant.)	

Plaintiffs Corey Taylor and Jotasha Taylor (“Plaintiffs”) are proceeding pro se and in forma pauperis in this action. Plaintiffs filed their complaint upon which this action proceeds on June 24, 2010. Defendant Wal-Mart Stores, Inc., erroneously sued as Walmart Inc., filed its answer to the complaint on November 2, 2010. Now pending before this Court is Plaintiffs’ motion for default judgment, which was filed on December 5, 2011.

By the instant motion, Plaintiffs request entry of default against “Sue,” a former employee of Defendant Wal-Mart Stores, Inc., pursuant to Federal Rule of Civil Procedure 55. Plaintiffs claim that Sue failed to file an answer to the complaint. However, Sue is not named as a defendant and is not required to answer the complaint. Therefore, entry of default pursuant to Rule 55 is not appropriate because Sue is not a “party against whom a judgment for affirmative relief is sought.” Fed. R. Civ. P. 55(a). Moreover, contrary to Plaintiffs’ assertions, Defendant

1 Wal-Mart Stores, Inc. was not required to submit an answer for Sue and it is not subject to an
2 automatic default judgment against it for failure to do so.

3 Based on the above, Plaintiffs' motion for entry of default is HEREBY DENIED.

4
5 IT IS SO ORDERED.

6 **Dated: December 6, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE