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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DOSA PLACE INTERNATIONAL, INC.,  
  
Plaintiff,  
  
vs.  
  
DOSA PLACE, et al.,  
  
Defendants.

CASE NO. 10cv2100-MMA (NLS)

**ORDER REFERRING UNOPPOSED  
MOTION FOR ENTRY OF DEFAULT  
TO CLERK OF COURT FOR ENTRY  
OF DEFAULT PURSUANT TO FED. R.  
CIV. P. 55(a)**

[Doc. No. 13]

This matter is before the Court on Plaintiff Dosa Place International, Inc.’s unopposed motion for entry of default against Defendant Dosa Place. Obtaining a default judgment is a two-step process governed by Federal Rule of Civil Procedure 55. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). First, Rule 55(a) provides, “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a) (emphasis added). Second, after the clerk enters default, a party must seek entry of default judgment under Rule 55(b).

The instant motion requests entry of default, in accordance with the procedure required by Rule 55(a), however the motion improperly seeks entry of default by the Court, rather than the

1 Clerk. *See, e.g., Vongrave v. Sprint PCS*, 312 F. Supp. 2d 1313, 1318 (S.D. Cal. 2004) (“[A] plain  
2 reading of Rule 55 demonstrates that entry of default by the *clerk* is a prerequisite to an entry of  
3 default judgment.”) (emphasis added). Because Plaintiff’s submission otherwise complies with the  
4 requirements of Rule 55(a), the Court refers the motion to the Clerk of Court for entry of default  
5 against Defendant Dosa Place.

6 Plaintiff is further advised that, in accordance with the Court’s General Filing Procedures  
7 Manual, available on the Court’s website at [www.casd.uscourts.gov](http://www.casd.uscourts.gov), “[u]pon filing of a clerk’s entry  
8 of default, a motion for default judgment and a proposed judgment should be filed with the Clerk’s  
9 Office to be submitted to the judge (FRCP 55(b)(2)).” Furthermore, in accordance with Civil Local  
10 Rule 7.1(b), “[a]ll hearing dates for any matters on which a ruling is required must be obtained from  
11 the [law] clerk of the judge to whom the case is assigned.”

12 **IT IS SO ORDERED.**

13 DATED: March 7, 2011

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15 Hon. Michael M. Anello  
16 United States District Judge

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