

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00824-WYD-KLM

RICHARD RAMOS,

Plaintiff,

v.

JIM KELLER,
TASHA DOBBS,
DUANE ROBINSON, and
ROBERT ARMENTA,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion for Default Judgment** [Docket No. 49; Filed October 13, 2009] (the "Motion").

Plaintiff moves for default on the ground that Defendants have not filed a reply in support of their motion to dismiss. This is not a proper basis for default. Pursuant to Fed. R. Civil P. 55, a default judgment must be entered "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend" The filing of the Motion to Dismiss indicates that Defendants have not failed to plead. Moreover, Defendants were not required to file a reply in support of their motion. See D.C.COLO.LCivR 7.1C ("the moving party *may* file a reply"). Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **DENIED**.

Dated: October 16, 2009

_____/s/ Kristen L. Mix_____

Kristen L. Mix

United States Magistrate Judge