

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00329-PAB-KLM

RONALD J. NAGIM,

Plaintiff,

v.

JANET NAPOLITANO, in her official capacity as Secretary of the Department of Homeland Security, and
ERIC HOLDER, JR., in his official capacity as Attorney General of the United States,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion to Show Cause and to Seek Default Judgment** [Docket No. 40; Filed January 19, 2011] (the "Motion"). The Motion is a rambling, largely unintelligible rebuke of Defendants and unnamed parties. Plaintiff, who is proceeding *pro se*, appears to seek favorable resolution of his case via entry of Default Judgment. A Recommendation to dismiss Plaintiff's case is pending [Docket No. 31].

IT IS HEREBY **ORDERED** that the Motion is **DENIED without prejudice**. The Motion is facially deficient. In addition to multiple violations of the Court's Local Rules, including that the Motion does not comply with D.C.COLO.LCivR 7.1A. & H., there is no legal basis to impose default judgment as the case is currently postured. First, pursuant to Fed. R. Civ. P. 55(a), a party must first seek entry of default prior to moving for default judgment. "Failure to successfully complete the first step of obtaining an entry of default necessarily precludes the granting of default judgment" *Vasquez v. Sims*, No. 10-cv-00200, 2010 WL 52461511, at *1 (D. Colo. Dec. 16, 2010) (unpublished decision). Second, because Defendants have answered Plaintiff's Complaint by filing a motion to dismiss, entry of default is not appropriate and, hence, default judgment shall not enter. *Id.* Third and finally, default judgment may not enter against the United States or its agents absent a substantial showing. Fed. R. Civ. P. 55(d). The Motion is subject to denial under any basis set forth above.

IT IS FURTHER **ORDERED** that Plaintiff shall not file any pleading until resolution of the Recommendation.

Dated: January 21, 2011