

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02111-REB-KLM

MARGUERITE E. BAIN,

Plaintiff/Counterclaim Defendant,

v.

UNITED STATES DEPARTMENT OF THE TREASURY - INTERNAL REVENUE
SERVICE, and
ALL UNKNOWN PERSONS WHO CLAIM ANY INTEREST IN THE SUBJECT MATTER
OF THIS ACTION,

Defendants/Counterclaimants/Third-Party Plaintiffs,

v.

KEYBANK NATIONAL ASSOCIATION,

Third-Party Defendant.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Motion for Default Judgment** [Docket No. 39; Filed February 15, 2013] (the "Motion"). No response has been filed. In her Motion, Plaintiff asks the Court to enter a default judgment pursuant to Fed. R. Civ. P. 55(b)(2). *Motion* [#39] at 1.

"[Federal] Rule [of Civil Procedure] 55 mandates a two-step process for a party who seeks a default judgment in [her] favor." *Williams v. Smithson*, 57 F.3d 1081, at *1 (10th Cir. June 20, 1995) (unpublished table decision); *U.S. Commodity Futures Trading Com'n v. Trimble*, Civil Action No. 11-cv-02887-PAB-KMT, 2013 WL 317576, at *1 (D. Colo. Jan. 28, 2013). First, the party seeking a default judgment must request an entry of default from the Clerk of the Court under Fed. R. Civ. P. 55(a). *Id.* After default has been entered by the Clerk, the party may seek default judgment pursuant to Fed. R. Civ. P. 55(b). *Id.* Here, Plaintiff never sought entry of default pursuant to Fed. R. Civ. P. 55(a). Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#39] is **DENIED without prejudice**.

Dated: April 26, 2013