

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02589-REB-KLM

MICHAEL BACOTE JR,

Plaintiff,

v.

WARDEN D. BERKEBILE,  
J. COULTER (Psychology),  
GREEN, Education Department Specialist,  
A.W. WARDEN (Overseas Psychology Department),  
D. KRIST (SIA),  
CAPTAIN R. KRIST,  
CORRECTIONAL OFFICER A. BALSICK, and  
CORRECTIONAL OFFICER G. SANDUSKY,

Defendants.

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**MINUTE ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on Plaintiff's **Motion for Default Judgment Rule 55 of the F.R. of Civil Procedure** [#46]<sup>1</sup> (the "Motion"). No response has been filed. In his Motion, Plaintiff asks the Court to enter a default judgment against Defendants pursuant to Fed. R. Civ. P. 55. *Motion* [#46] at 1-2.

"[Federal] Rule [of Civil Procedure] 55 mandates a two-step process for a party who seeks a default judgment in his 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 *Williams v. Smithson*, 57 F.3d 1081, at \*1 (10th Cir. June 20, 1995) (unpublished table decision); *U.S. Commodity Futures Trading Com'n v. Trimble*, Civil Action No. 11-cv-02887-PAB-KMT, 2013 WL 317576, at \*1 (D. Colo.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 has not sought entry of default pursuant to Fed. R. Civ. P. 55(a). Further, in

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<sup>1</sup> "[#46]" is an example of the convention I use to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). I use this convention throughout this Minute Order.

response to the Motion, the Clerk of the Court entered a note stating that the Motion does not include the date service was complete and that the time for Defendants to respond to the Complaint has not expired. *See generally Clerk's Note Regarding Default* [#49]. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#46] is **DENIED without prejudice**.

Dated: March 6, 2014