

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00811-KLM

METROPOLITAN LIFE INSURANCE COMPANY,

Plaintiff,

v.

GEORGE H. JOHNSON,
JAMIE JOHNSON, and
JENNIFER JOHNSON,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant George Johnson's **Unopposed Motion For Clerk's Entry of Default Pursuant to Fed.R.Civ.P. 55(a) and For Default Judgment Pursuant to Fed.R.Civ.P. 5(b) Against Co-Defendants Jamie Johnson and Jennifer Johnson** [#22]¹ (the "Motion"). No response has been filed. In his Motion, Defendant George Johnson asks the Clerk of the Court to enter default against Defendants Jamie Johnson and Jennifer Johnson pursuant to Fed. R. Civ. P. 55(a) and asks the Court to enter a default judgment pursuant to Fed. R. Civ. P. 55(b)(2). *Motion* [#22] at 1.

On August 29, 2014, the Clerk of the Court entered his Note Regarding Default [#23] stating that "[d]efault will not be entered as to Jamie Johnson [and] Jennifer Johnson . . . as [] the affidavit or declaration required by Fed. R. Civ. P. 55 was not filed . . ." *Clerk's Note Regarding Default* [#23]. "[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 *Williams v. Smithson*, 57 F.3d 1081, at *1 (10th Cir. June 20, 1995) (unpublished table decision); *U.S. Commodity Futures Trading Com'n v. Trimble*, No. 11-cv-02887-PAB-KMT, 2013 WL 317576, at *1 (D. Colo.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.

¹ "[#22]" 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.

55(b). *Id.* Here, the Clerk has not entered default pursuant to Fed. R. Civ. P. 55(a). Accordingly, the Court cannot enter a default judgment pursuant to Fed. R. Civ. P. 55(b). Therefore,

IT IS HEREBY **ORDERED** that the Motion [#22] is **DENIED without prejudice**.

Dated: September 2, 2014