

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 15-cv-00041-REB-KMT

JONATHAN (LANE) WOODSTOCK,

Plaintiff,

v.

LT. S. SHAFFER,
CHAPLAIN BRET RICKARD,
CAPTAIN PALMER, and
S. JONES,

Defendants.

ORDER

This matter is before the court on Plaintiff's "Request for Entry of Default Judgment and Summarry [sic] Judgment" (Doc. No. 49, filed June 8, 2015).

Plaintiff asserts he is entitled to default judgment against all defendants for their failure to answer or take other action in this matter. (*See id.*)

When a defendant fails to "plead or otherwise defend," and that failure is shown by affidavit or otherwise, default must be entered by the clerk of the court. Fed. R. Civ. P. 55(a). Thereafter, the prevailing party may ask the Court to enter default judgment. *See* Fed. R. Civ. P. 55(b)(2). Without an entry of default, the Court cannot grant judgment. *See Garrett v. Seymour*, No. 06-7029, 217 F. App'x 835, 838 (10th Cir. Feb. 23, 2007) (the clerk's entry of default is a

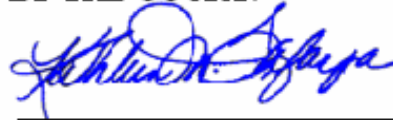
prerequisite for the entry of a default judgment). No default has been entered by the Clerk of Court in this case against any defendant.

Moreover, this court granted Defendant Rickard an extension to May 19, 2015, to answer or otherwise respond to the complaint (Doc. No. 30), granted Defendants Jones, Palmer, and Shaffer an extension to May 29, 2015, to answer or otherwise respond to the complaint (Doc. No. 26), and granted Defendant Jones a further extension to June 5, 2015, to answer or otherwise respond to the complaint (Doc. No. 35). Defendant Rickard timely filed his answer on May 18, 2015 (Doc. No. 31), Defendants Palmer and Shaffer timely filed a motion for summary judgment on May 28, 2015 (Doc. No. 40), and Defendant Jones timely filed a motion to dismiss on June 5, 2015 (Doc. No. 46).

Because no default occurred and because default has not been entered, Plaintiff's motion for default judgment is DENIED without prejudice. For the same reason, and because Plaintiff has failed to file a proper motion under Fed. R. Civ. P. 56, Plaintiff's motion for summary judgment also is DENIED without prejudice.

Dated this 9th day of June, 2015.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge