

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

DEREK BLOUNT,

Plaintiff,

v.

Case No. 3:17-cv-733-J-39JRK

ESLY J. HODGE,

Defendants.

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**ORDER**

Plaintiff's Motion for Default Judgment (Doc. 48; Motion) is **DENIED**. Plaintiff is proceeding on a Second Amended Complaint (Doc. 35), and Defendant filed a timely Motion to Dismiss (Doc. 36). Thus, Defendant has not "failed to plead or otherwise defend" the action. See Fed. R. Civ. P. 55(a). Moreover, to obtain a default judgment, a party first must move for and obtain entry of a clerk's default. See Fed. R. Civ. P. 55(a), (b). Not only is a clerk's default not warranted, but Plaintiff's assertion that a "default has been entered against defendant Esly" is incorrect. See Motion at 1.

**DONE AND ORDERED** at Jacksonville, Florida, this 7th day of November, 2018.

  
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JAMES R. KLINDT  
United States Magistrate Judge

Jax-6

c: Derek Blount  
Counsel of Record