

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

IVETTE RIVERA,

Plaintiff,

v.

Case No. 8:17-cv-1409-T-33TBM

UNITED HEALTH GROUP, INC. and  
OPTUM BANK, INC.,

Defendants.

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**ORDER**

This matter comes before the pursuant to Plaintiff's Motion for Default Judgment Against Defendant Optum Bank, Inc. (Doc. # 23), which was filed on October 18, 2017. The Court denies the Motion without prejudice as prematurely filed.

Local Rule 1.07(b), M.D. Fla., specifies:

When service of process has been effected but no appearance or response is made within the time and manner provided by Rule 12, Fed. R. Civ. P., the party effecting service **shall promptly apply to the Clerk for entry of default pursuant to Rule 55(a), Fed. R. Civ. P., and shall then proceed without delay to apply for a judgment pursuant to Rule 55(b), Fed. R. Civ. P.,** failing which the case shall be subject to dismissal sixty (60) days after such service without notice and without prejudice; provided, however, such time may be extended by order of the Court on reasonable application with good cause shown.

Local Rule 1.07(b), M.D. Fla. (emphasis added).

Here, Plaintiff seeks entry of a default judgment, but she has not yet filed an application to the Clerk for Entry of a Clerk's Default under Rule 55(a). Plaintiff should obtain a

Clerk's Default as to Optum Bank before seeking entry of a default judgment against Optum Bank.

Accordingly, it is

**ORDERED, ADJUDGED, and DECREED:**

Plaintiff's Motion for Default Judgment Against Defendant Optum Bank, Inc. (Doc. # 23) is **DENIED WITHOUT PREJUDICE AS PREMATURELY ASSERTED.**

**DONE and ORDERED** in Chambers, in Tampa, Florida, this 19th day of October, 2017.

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