

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RONALD E. BROWN,

Plaintiff,

vs.

WESTON TRANSPORTATION,

Defendant.

Case No. 14-2456-JAR

MEMORANDUM AND ORDER

Plaintiff Ronald Brown, proceeding *pro se* and *in forma pauperis*, filed this action alleging violations under Title VII of the Civil Rights Act of 1964,¹ and the Age Discrimination in Employment Act of 1967.² Before the Court is Plaintiff's Motion for Default Judgment against Defendant Weston Transportation (Doc. 9). As described more fully below, Plaintiff's motion is denied without prejudice.

The docket shows that summons was returned executed upon Defendant by certified mail on September 15, 2014.³ Defendant has failed to file a responsive pleading or otherwise appear in this action. Plaintiff moves for entry of default judgment against Defendant in the amount of \$75,000, to be paid within forty-five days.

The Court finds that Plaintiff's motion must be denied. Plaintiff has failed to comply with the two-step process contemplated by Fed. R. Civ. P. 55. Plaintiff must first apply to the

¹42 U.S.C. § 2000e *et seq.*

²29 U.S.C. § 621 *et seq.*

³Docs. 3 and 4.

clerk for entry of default under subsection (a) which states that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.”⁴ If the clerk enters a default, plaintiff may then file a motion for default judgment under Fed. R. Civ. P. 55(b).⁵ “A plaintiff may not seek default judgment before it has applied for entry of default.”⁶ Accordingly, the motion is premature and must be denied.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Default Judgment against Defendant Weston Transportation (Doc. 9) is **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated: October 10, 2014

S/ Julie A. Robinson

JULIE A. ROBINSON

UNITED STATES DISTRICT JUDGE

⁴*Christenson Media Group, Inc. v. Lang Indus., Inc.*, 782 F. Supp. 2d 1213, 1222 (D. Kan. 2011) (citing Fed. R. Civ. P. 55(a)).

⁵*Id.*

⁶*Id.* at 1223 (citations omitted).