

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEFFERY L. GEILL,

Plaintiff,

Case No. 18-11833

v.

HON. DENISE PAGE HOOD

FIAT CHRYSLER AUTOMOBILES,
LLC,

Defendant.

**ORDER DENYING PLAINTIFF'S
MOTION FOR ENTRY OF DEFAULT JUDGMENT [#16]**

On June 8, 2018, Plaintiff filed this cause of action. The Court granted his application to proceed without payment of fees and directed service be conducted by the U.S. Marshal Service. Dkt. Nos. 4, 5. On August 14, 2018, Plaintiff requested a Clerk's Entry of Default, Dkt. No. 11, and the Clerk of the Court denied the request for Clerk's Entry of Default because there was no certified document(s) showing receipt of the Summons and Complaint. Dkt. No. 12. On the same day (August 14, 2018), Defendant filed an Answer to the Complaint. Dkt. No. 13. On August 15, 2018, Plaintiff filed a Motion for Entry of Default Judgment, Dkt. No. 16, to which Defendant timely responded. Dkt. No. 17.

The Court denies Plaintiff's Motion for Default Judgment. First, there is no

evidence that Defendant was properly served. The Summons and Complaint were not addressed to Defendant's resident agent in Michigan (or elsewhere), and neither the resident agent nor any other person on behalf of Defendant signed for the Summons and Complaint when it was sent to Defendant's headquarters via certified mail. Accordingly, Plaintiff's service was defective. *See, e.g., Rhinehart v. Scutt*, No. 2:10-CV-10006-DT, 2010 U.S. Dist. LEXIS 96837, at *32 (E.D. Mich. Aug. 16, 2010).

Second, when Defendant filed its Answer on August 14, 2018, Plaintiff did not have a motion or request for default pending before the Court. Plaintiff's request for Clerk's Entry of Default had been denied, and Plaintiff had not yet filed his Motion for Entry of Default Judgment. Accordingly, Plaintiff cannot satisfy the requirement pursuant to Federal Rule Civil Procedure 55(a) that default may be entered if a party "has failed to plead or otherwise defend."

For the reasons stated above, Plaintiff's Motion for Entry of Default Judgment [#16] is **DENIED**.

IT IS ORDERED.

S/Denise Page Hood
Denise Page Hood
Chief Judge, United States District Court

Dated: September 18, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 18, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager