

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Dominique J. Connell,

Plaintiff,

v.

ORDER

Civil File No. 10-3133 (MJD/FLN)

Bank of America, Wells
Fargo Bank, N.A., BAC
Home Loans, LP,

Defendants.

This matter is before the Court on Plaintiff's Motion for a Judgment by Default [Docket No. 40] against Wells Fargo, N.A.. Pursuant to Rule 55(b) of the Federal Rules of Civil Procedure this Court may not enter a default judgment until the Clerk of Court has entered the defendant's default under Rule 55(a) of the Federal Rules of Civil Procedure. Since the Clerk of Court has not at this time entered default against Wells Fargo, the Court will deny Plaintiff's motion.

Furthermore, after examining the docket for this case, the Court finds that no summons has been issued to Wells Fargo. Thus, Wells Fargo is not in default at this time, because pursuant to Rule 12 of the Federal Rules of Civil Procedure, a defendant has 21 days from the time they are served with the summons and

complaint to serve a responsive pleading. Since no summons has been issued to Wells Fargo, their time to serve a responsive pleading has not yet begun to run.

Accordingly, **IT IS HEREBY ORDERED** that:

Plaintiff's Motion for Judgment by Default for Wells Fargo Bank [Docket No. 40] is **DENIED**.

Date: January 7, 2011

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court