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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

2:09-CV-1476 JCM (LRL)

ED ROMAN,

Plaintiff,

v.

BERNIE (BERNARD) CHASE, et al.,

Defendants.

ORDER

Presently before the court is plaintiff Ed Roman’s application for default judgment as against non-answering defendant William Harger. (Doc. # 40).

Pursuant to Federal Rule of Civil Procedure 55(a), “[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.” Rule 55(b)(2) provides that “a court may enter a default judgment *after* the party seeking default applies to the clerk of the court as required by subsection (a) of this rule.”

Plaintiff is therefore required to first submit a motion for entry of clerk’s default. Plaintiff has failed to do so, instead submitting a motion for default judgment. Because plaintiff has not followed proper procedure as required under the Federal Rules, his motion for default judgment is denied without prejudice.

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Accordingly,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that plaintiff's motion for default judgment (doc. #40) be, and by the same hereby is, DENIED.

DATED August 9, 2011.


UNITED STATES DISTRICT JUDGE