

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IBEW LOCAL 351 PENSION FUND, et al.,	:	Hon. Joseph H. Rodriguez
Plaintiffs,	:	Civil Action No. 14-2149
v.	:	
GEORGE SPARKS, INC., et al.,	:	Memorandum Order
Defendants.	:	

This matter having come before the Court on Plaintiffs' Motion for Entry of Default Judgment [Dkt. Entry No. 4]; and

The Court having considered Plaintiffs' submissions and noting that Defendants have not opposed the instant motion; and

The Court noting that Fed. R. Civ. P. 55(b)(2) authorizes district courts to enter a default judgment against "a properly served defendant who fails to plead or otherwise defend an action." See La. Counseling and Family Services, Inc. v. Makrygialos, LLC, 543 F. Supp. 2d 359, 364 (D.N.J. 2008) (citing Anchorage Assoc. v. Virgin Is. Bd. Of Tax Rev., 922 F.2d 168, 177 n.9 (3d Cir. 1990) ("When a defendant fails to appear . . . the district court or its clerk is authorized to enter a default judgment based solely on the fact that the default has occurred."); and

The Court further noting that before a party may move for default judgment pursuant to Rule 55(b), they must have the Clerk enter default pursuant to Rule 55(a). Nationwide Mutual Ins. Co. v. Starlight Ballroom Dance Club, Inc., 175 Fed. Appx. 519, 521 n.1 (3d Cir.2006) ("Prior to obtaining a default judgment under either Rule 55(b)(1) or Rule 55(b)(2), there must be entry of default as provided by Rule 55(a)."); DeTore v. Local No. 245 of the Jersey City Pub. Employees Union, 511 F. Supp. 171, 176 (D.N.J.

1981) (noting that "no default *judgment* may be entered under Fed. R. Civ. P. 55(b) . . . unless a *default* has previously been entered by the clerk under 55(a).").

Accordingly,

IT IS THEREFORE ORDERED on this 8th day of September, 2014, that Plaintiffs' Motion for Default Judgment [Dkt. Entry No. 4] is hereby DENIED.

s/ Joseph H. Rodriguez

Hon. Joseph H. Rodriguez,
United States District Judge