

NOT FOR PUBLICATION

(Doc. Nos. 22, 28)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

_____	:	
TIMOTHY A. TURNER,	:	
	:	Civil No. 15-5499 (RBK/KMW)
Plaintiff,	:	
	:	ORDER
	:	
	:	
	:	
v.	:	
	:	
M. RODGER, et al.	:	
	:	
Defendants.	:	
_____	:	

KUGLER, United States District Judge:

THIS MATTER having come before the Court upon Plaintiff’s Motion for Partial Summary Judgment (Doc. No. 22) and Plaintiff’s Motion for Default Judgment (Doc. No. 28), and the Court having considered the unopposed moving papers;

THE COURT NOTING that Federal Rule of Civil Procedure 5(a)(1)(D) requires service of any “written motion, except one that may be heard ex parte” with limited exceptions; and

THE COURT FURTHER NOTING that Federal Rule of Civil Procedure 5(a)(2) states that “[n]o service is required on a party who is in default for failing to appear”; and

THE COURT OBSERVING no indication that Defendants were served with Plaintiff’s Motion for Partial Summary Judgment; and

THE COURT FURTHER OBSERVING that the Clerk of Court has not entered default against Defendants under Federal Rule of Civil Procedure 55(a); and

THE COURT FURTHER NOTING that entry of default judgment necessarily requires a prior entry of default.

IT IS HEREBY ORDERED that Plaintiff's Motion for Partial Summary Judgment is **DENIED WITHOUT PREJUDICE** for noncompliance with Federal Rule of Civil Procedure 5.

IT IS HEREBY FURTHER ORDERED that Plaintiff's Motion for Default Judgment is **DENIED WITHOUT PREJUDICE**.

Dated: 03/07/2017

s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge