

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**ERNST HOFFMAN,**

**Plaintiff,**

**v.**

**WILLIAM DRATEL, SHARYN LAWALL  
DRATEL,**

**Defendants.**

Civ. No. 13-2828 (WJM)

**ORDER**

This matter comes before the Court on Plaintiff Ernst Hoffman’s motion for default judgment against Defendants William Dratel and Sharyn Lawall Dratel pursuant to Fed. R. Civ. P. 55(b)(2); and it appearing that default was entered by the Clerk of the Court against Defendants on June 21, 2013 for their failure to plead or otherwise defend in this action; and Plaintiff having thereafter moved for default judgment against Defendants in the amount of \$368,759.10 on July 16, 2013 based on the terms set forth in a one-page letter which appears to be signed by all parties (the “Default Judgment Motion”) (ECF No. 6); and it appearing that at the time of that filing, Plaintiff failed to serve Defendants with copies of the Default Judgment Motion; and the Court noting that Plaintiff’s one-page affidavit of service filed with this Court on August 16, 2013 – indicating that Defendant William Dratel was served with a “Request to Enter Default” on July 30, 2013 – fails to adequately demonstrate that Defendants were otherwise served with copies of Default Judgment Motion; and the Court further noting that even after

obtaining entry of default, parties are not entitled to the subsequent entry of default judgment as of right. *Hritz v. Woma Corp.*, 732 F.2d 1178, 1180 (3d Cir.1984); and that “[b]efore imposing the extreme sanction of default, [the Court must consider]: (1) whether the party subject to default has a meritorious defense, (2) the prejudice suffered by the party seeking default, and (3) the culpability of the party subject to default.” *Doug Brady, Inc. v. N.J. Bldg. Laborers Statewide Funds*, 250 F.R.D. 171, 177 (D.N.J. 2008) (citing *Emcasco Ins. Co. v. Sambrick*, 834 F.2d 71, 74 (3d Cir. 1987)); and entry of the extreme sanction of default being within the discretion of the Court. *Hritz* at 1180 (3d Cir.1984); and under the circumstances of the present motion, in which Plaintiff seeks over \$368,000 from Defendants based on a one-page document, and has failed to adequately demonstrate that the present Default Judgment Motion was served upon Defendants; and for good cause appearing,

**IT IS** on this 3rd day of September 2013, hereby,

**ORDERED** that Plaintiff’s motion for default judgment in favor of Plaintiff Ernst Hoffman and against Defendants William Dratel and Lawall Dratel is **DENIED** without prejudice.

s/William J. Martini  
**WILLIAM J. MARTINI, U.S.D.J.**