

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MITCHELL KERSCH,

Plaintiff(s),

-v-

FOXO TECHNOLOGIES, INC.,

Defendant(s).

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 10/24/2024

**ORDER**

24-CV-5408 (AT) (HJR)

**HENRY J. RICARDO, United States Magistrate Judge.**

By Order of Reference dated October 16, 2024, Plaintiff's Motion for Default Judgment was referred to me. ECF No. 16. For the reasons stated below, Plaintiff's Motion for an Order to Show Cause, ECF No. 13, is DENIED without prejudice.

By Order dated September 27, 2024, Judge Torres directed Plaintiff to initiate default judgment proceedings pursuant to Attachment A of her Individual Practices in Civil Proceedings ("Default Judgment Procedure"). ECF No. 12. The Default Judgment Procedure requires the party initiating default judgment proceedings to submit (1) "a proposed order to show cause for default judgment," (2) "an affidavit or declaration signed by someone with personal knowledge (i.e., not the attorney in the action except in limited circumstances), which sets forth a statement of proposed damages and the basis for each element of damages, including a step-by-step explanation of each calculation," and (3) "an affidavit or declaration in support of the order."

Plaintiff's submissions do not meet the requirements of the Default Judgment Procedure. Plaintiff did not file an affidavit or declaration signed by someone with personal knowledge, provide any cause for why one should not be required in this circumstance, nor provide the required information by other means.

Plaintiff may resubmit his Motion for Default Judgment with all of the information and materials required by the Default Judgment Procedure by November 22, 2024.

### CONCLUSION

For the reasons discussed above, Plaintiff's Motion for an Order to Show Cause, ECF No. 13, is hereby DENIED without prejudice.

**SO ORDERED.**

Dated: October 24, 2024  
New York, New York



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Henry J. Ricardo  
United States Magistrate Judge