

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:13-cv-00060-MR-DLH**

SANDRA PRESSLEY and DEAN PRESSLEY,)
)
)
 Plaintiffs,)
vs.)
)
 BIRD BRAIN, INC. and WAL-MART STORES EAST, LP,)
)
)
 Defendants,)
and)
)
 WAL-MART STORES EAST, LP,)
)
 Third Party Plaintiff,)
vs.)
)
 SUSIE W. GIBSON, a/k/a Vivian Y. Gibson,)
)
)
 Third Party Defendant.)
_____)

ORDER

THIS MATTER is before the Court on the Plaintiffs’ Motion for Entry of Default Judgment against Bird Brain, Inc. [Doc. 17].

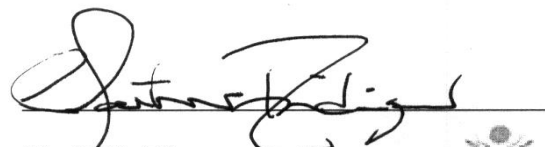
The Plaintiffs move pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure for the entry of a default judgment against the Defendant Bird Brain, Inc. [Doc. 17]. The Plaintiffs, however, have not yet moved for

the entry of a default against this Defendant. In order to obtain a default judgment, the Plaintiffs must first seek an entry of default pursuant to Rule 55(a). Once the Clerk of Court has entered a default against the Defendant, the Plaintiffs may then seek the entry of a default judgment. See Fed. R. Civ. P. 55(b). Accordingly, the Plaintiffs' motion for the entry of a default judgment is premature.

IT IS, THEREFORE, ORDERED that the Plaintiffs' Motion for Entry of Default Judgment against Bird Brain, Inc. [Doc. 17] is **DENIED** as premature.

IT IS SO ORDERED.

Signed: May 30, 2013


Martin Reidinger
United States District Judge 