

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Leland Oil & Gas, LLC, and K and R,)
Roustabout, Inc.,)

Plaintiffs,)

vs.)

Marsha Azar and Saul Azar dba Illinois,)
Energy, and Bensun Energy, LLC,)

Defendants.)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 1:14-cv-161

Before the Court is a “Motion for Default Judgment Against Defendant Bensun Energy, LLC” filed by Plaintiff Leland Oil & Gas, LLC (“Leland Oil”) on August 6, 2015. See Docket No. 26. On November 4, 2015, Magistrate Judge Charles S. Miller, Jr. issued a Report and Recommendation in which he recommended that the motion be denied without prejudice as Leland Oil has not complied with the requirements of Fed. R. Civ. P. 55(a). See Docket No. 38. Judge Miller also recommended that, in the interests of judicial economy, the Court treat the motion as a request for entry of default. The parties were given fourteen days to file any objections to the Report and Recommendation. No objections were filed.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. Rule 55(a) clearly requires entry of default by the Clerk prior to the grant of default judgment under Rule 55(b). Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 38) in its entirety. Leland Oil’s motion for entry of default judgment (Docket No. 26) is **DENIED** without prejudice. The Clerk of Court is directed to treat the motion for entry of default judgment as a request for entry

of default and enter default against Bensun Energy pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Dated this 2nd day of December, 2015.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court