

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

APPA SEAFOOD, INC.,

Plaintiff,

v.

OBETZ TRANSPORTATION
INC., *et al.*,

Defendants.

Case No. 2:12-CV-01095

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Terence P. Kemp

ORDER

This matter is before the Court for consideration of Plaintiff's Motion for Default against Defendant Obetz Transportation, Inc., pursuant to Federal Rule of Civil Procedure 55(b)(1). (ECF No. 17.) Although Plaintiff seeks default under Rule 55(b)(1) the record reflects that Plaintiff has failed to request an entry of default from the Clerk pursuant to Rule 55(a). *See Heard v. Caruso*, 351 F. App'x 1, 15-16 (6th Cir. 2009) ("Prior to obtaining a default judgment under either Rule 55(b)(1) or Rule 55(b)(2), there must be an entry of default as provided by Rule 55(a).") (internal quotations omitted). Accordingly, Plaintiff's Motion is **DENIED** without prejudice.

IT IS SO ORDERED.

5-8-2013

DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE