UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

COACH, INC. *et al.*,

Plaintiffs,

v.

Civil Action 2:16-cv-729
Judge Algenon L. Marbley
Magistrate Judge Elizabeth P. Deavers

MELANIE BROMELOW *et al.*,

Defendants.

ORDER

This matter is before the Court for consideration of Plaintiffs' Motion for Default Judgment against Defendant Mel's Imagination (ECF No. 22). For the reasons that follow, the Court **DENIES** Plaintiff's Motion **WITHOUT PREJUDICE**.

Prior to seeking a default judgment, Plaintiffs must first obtain an entry of default as contemplated by Federal Rule of Civil Procedure 55(a). *United Coin Meter Co. v. Seaboard Coastline R.R.*, 705 F.2d 839, 844 (6th Cir. 1983) (internal quotation omitted); *Brantley v. Runyon*, No. C-1-96-842, 1997 WL 373739, at *1 (S.D. Ohio June 19, 1997). "Then, pursuant to Rule 55(c), the defendant has an opportunity to seek to have the entry set aside. If that motion is not made or is unsuccessful, and if no hearing is needed to ascertain damages, judgment by default may be entered by the court or, if the defendant has not appeared, by the clerk." *United Coin Meter Co.*, 705 F.2d at 844. Plaintiffs' request for default judgment, therefore, is premature because the Clerk has not entered default against Defendants pursuant to Federal Rule of Civil Procedure 55(a).

In the interests of judicial economy, however, the Court construes Plaintiffs' motion as a motion for entry of default. Plaintiffs filed their Complaint on July 25, 2016. (ECF. No. 1.) The record shows that summons were returned executed as to Defendants Melanie Bromelow and Mel's Imagination on November 28, 2016. (ECF No. 14.) The time for Defendants to answer or otherwise plead expired December 19, 2016. Fed. R. Civ. P. 12. Defendant Mel's Imagination, however, has not filed an answer or other responsive pleading.

On February 2, 2017, the Court ordered Plaintiffs to show cause as to why the Court should not dismiss the action against Mel's Imagination for want of prosecution. (ECF No. 20.) On February 3, 2017, Plaintiffs filed the instant motion. Because it appears that Defendant Mel's Imagination was properly served with a summons and copy of the Complaint and have failed to plead or otherwise defend in this matter, an Entry of Default is appropriate pursuant to Federal Rule of Civil Procedure 55(a). Following the Clerk's entry of default, Plaintiffs shall have leave to renew their motion for default judgment under Federal Rule of Civil Procedure 55(b).

Accordingly, the **CLERK** is **DIRECTED** to **ENTER DEFAULT** against Defendant Mel's Imagination in this matter. Furthermore, without expressing any opinion as to whether Plaintiffs are entitled to default judgment, Plaintiffs' request for default judgment is **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Date: February 6, 2017

/s/ *Elizabeth A. Preston Deavers*
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE