

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL LUNA,	)	
	)	
Plaintiff	)	Case No. 1:18-cv-144 (ERIE)
	)	
vs.	)	
	)	RICHARD A. LANZILLO
SHAWN MASSY, ET AL.,	)	UNITED STATES MAGISTRATE JUDGE
	)	
Defendants	)	
	)	O R D E R

Plaintiff Michael Luna has filed two motions seeking a default judgment against the Defendants. ECF No. 49, ECF No. 52. Those motions are hereby DENIED. First, Luna has failed to follow the Federal Rules of Civil Procedure. To wit, Rule 55 mandates that “[b]efore a plaintiff can obtain a default judgment pursuant to Rule 55(b), a plaintiff must secure an entry of default per Rule 55(a).” *Allah am v. Nadar*, 635 Fed. Appx. 32, 36 (3d Cir. 2015) (citing 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2682, at 13 (3d ed. 1998)). “Once default is entered against a specific defendant, Rule 55(b) allows the plaintiff to request that the clerk or the court enter a default judgment against that defendant, depending on whether the claim is for a sum certain.” *Id.* Luna has not obtained an entry of default, thereby proscribing the entry of default judgment. *See, e.g., Turner v. Doe*, 2018 WL 2278096 at \*6 (D. N. J. May 18, 2018).

Luna’s motion for default judgment against Defendants Claypool, Hyrniczak, Massy, Stevick, Streyle, and Zinram [ECF No. 52] is also DENIED because a timely responsive pleading was filed by these Defendants. *See* ECF No. 19 (setting deadline for filing answer or other responsive pleading for 9/25/2018) and ECF No. 26 (Defendants’ filing of a motion to dismiss). And, the Court observes that Luna filed an Amended Complaint [ECF No. 29] on

September 27, 2019, to which the Defendants have timely filed a renewed motion to dismiss  
[ECF No. 34].

So ordered.

*/s/ Richard A. Lanzillo*  
Richard A. Lanzillo  
RICHARD A. LANZILLO  
UNITED STATES MAGISTRATE JUDGE

Filed this 3<sup>rd</sup> day of January, 2018.