

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

<p>LESTER JON RUSTON, Plaintiff, vs. CHURCH OF JESUS CHRIST OF LATTER- DAY SAINTS, et al., Defendants.</p>	<p>REPORT & RECOMMENDATION RE: MOTION FOR DEFAULT JUDGMENT</p> <p>Case No: 2:06-CV-526 DB District Judge Dee Benson Magistrate Judge David Nuffer</p>
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Plaintiff Lester Jon Ruston has filed a motion for default judgment. He asserts that this case was opened on June 29, 2006, and Defendants had not filed an answer as of September 6, 2006.

Ruston is not entitled to entry of a default judgment for a number of reasons including that the complaint has not been served on Defendants; Defendants have filed a motion to dismiss;¹ and most importantly, Ruston has been denied permission to proceed in this case under 28 U.S.C. § 1915 without prepayment of the entire filing fee.²

¹Motion to Dismiss, docket no. 11, filed November 15, 2006.

²Memorandum Decision and Order, docket no. 33, filed August 13, 2007.

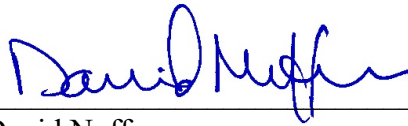
RECOMMENDATION

For the above-stated reasons, Ruston's Motion for Default Judgment should be denied.³

Copies of this Report and Recommendation are being mailed to the parties, who are hereby notified that they have the right to object to the Report and Recommendation. The parties are further notified that they must file any objections to the Report and Recommendation with the clerk of the district court, pursuant to [28 U.S.C. § 636\(b\)](#), within ten (10) days after receiving it. Failure to file objections may constitute a waiver of those objections on subsequent appellate review.

August 22, 2007.

BY THE COURT:

A handwritten signature in blue ink that reads "David Nuffer". The signature is written in a cursive style and is positioned above a horizontal line.

David Nuffer
U.S. Magistrate Judge

³Docket no. 8, filed September 11, 2006.