

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

WILLIAM RYAN,

Plaintiff,

v.

CASE NO. 3:24-cv-805-TJC-SJH

WELLS FARGO BANK, N.A.,

Defendant.

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ORDER

This cause is before the Court on Plaintiff's Motion for Entry of Clerk's Default ("Motion"). Doc. 12. The Motion is due to be **denied without prejudice**.

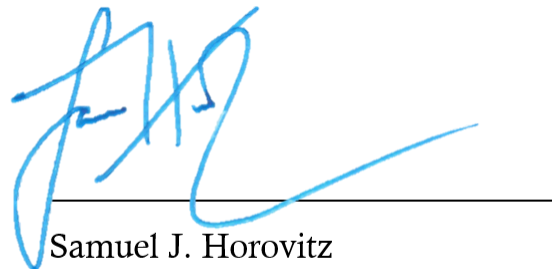
Rule 5(a)(1)(D) of the Federal Rules of Civil Procedure ("Rule(s)") "requires that written motions be served on every party and that a certificate of service be filed with motions. 'Nothing in the text of Rule 55 excuses the service requirement for requests for entry of default (as distinguished from motions for default judgment), and Rule 5(a) on its face requires such service.'" *PNC Equip. Fin., LLC*, 2014 WL 12625121, at *1 (quotation omitted); *see also Ferrara Candy Co. v. Exhale Vapor LLC*, No. 2:17-cv-512-FtM-38MRM, 2017 WL 10591766, at *1 (M.D. Fla. Nov. 27, 2017). Here, Plaintiff's Motion gives no indication it was ever served on Defendant. Though it includes a certificate of service, such states merely that the Motion was filed via CM/ECF not that Defendant (who has yet to appear to receive electronic

service via CM/ECF) was served with the Motion. *See* Doc. 12 at 3. Thus, because it fails to comply with Rule 5, the Motion is due to be denied without prejudice.

In addition, the Motion’s terse discussion makes no effort to articulate how service upon “Gina Cabrera, Branch Operations” was sufficient under applicable law. Proper service is a prerequisite to a clerk’s default, and any renewed motion should adequately address, with citations to authority, why service of process on Defendant was proper. *See Staley v. Health First, Inc.*, No. 6:24-cv-621-CEM-LHP, 2024 WL 2815858, at *1 (M.D. Fla. June 3, 2024).

Accordingly, Plaintiff’s Motion for Entry of Clerk’s Default (Doc. 12) is **denied without prejudice**.

DONE AND ORDERED in Jacksonville, Florida, on September 20, 2024.



Samuel J. Horovitz
United States Magistrate Judge

Copies to:

Counsel of Record