

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

Justin Lester and Amanda Lester,

Plaintiffs,

v.

Case No. 15-9081-JWL

Great Wolf Lodge of Kansas City, LLC et al.,

Defendants.

MEMORANDUM & ORDER

Plaintiffs filed this lawsuit against several defendants alleging negligence claims. This matter is presently before the court on plaintiffs’ motion for “order of default” against defendant Great Lakes Services, LLC (doc. 67).

Federal Rule of Civil Procedure 55 envisions a two-step process for obtaining a default judgment. *Meyers v. Pfizer, Inc.*, 581 Fed. Appx. 708, 710 (10th Cir. 2014). First, the party wishing to obtain a default judgment must apprise the court that the opposing party has failed to plead or otherwise defend by requesting “by affidavit or otherwise” that the clerk enter default on the docket. *Id.*; Fed. R. Civ. P. 55(a). Second, following an entry of default by the clerk, the party entitled to a judgment by default shall apply to the clerk or the court under Rule 55(b), depending on the nature of the relief requested. *Id.* & n.3.

In their motion, plaintiffs seem to conflate the two steps. Plaintiffs reference both a desire for an “entry of default” and also a “judgment” in their favor, although they do not state the amount of the judgment they seek. The court cannot enter default judgment at this juncture because no entry of default has been requested or entered under Rule 55(a). *See id.* at 710-11.

Thus, the court construes plaintiffs' motion as a request for entry of default under Rule 55(a) and grants the motion. The docket reflects that plaintiffs served the registered agent of Great Lake Services, LLC by certified mail on October 26, 2015. That defendant has not filed an answer to the complaint or otherwise appeared in this case. The court, then, will direct the Clerk to enter default against defendant Great Lakes Services, LLC on the claims set forth in the complaint. Once default is entered, plaintiffs may file a motion for default judgment under Rule 55(b) with the court.

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiffs' motion for order of default (doc. 67) is construed as a motion for entry of default and is granted.

IT IS FURTHER ORDERED BY THE COURT THAT the Clerk shall enter default against defendant Great Lakes Services, LLC on the claims set forth in the complaint.

IT IS SO ORDERED.

Dated this 17th day of February, 2016, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge