

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

**J & J SPORTS PRODUCTIONS, INC.,**

**Plaintiff,**

**v.**

**BABY'O, LLC, d/b/a BABY'O  
NIGHTCLUB AND BAR, and  
ANNETTE TODD,**

**Defendants.**

**Case No. 15-CV-9155-DDC-KGG**

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff J & J Sports Productions, Inc.'s Motion for Default Judgment (Doc. 6). Plaintiff asks the Court to enter a default judgment under Fed. R. Civ. P. 55 because both defendants Baby'O, LLC and Annette Todd have been served with process and neither has answered or otherwise responded to the Complaint (Doc. 1). For the reasons explained below, plaintiff's motion is denied.

Plaintiff's request that the Court proceed directly to default judgment does not comply with the two-step process mandated by Fed. R. Civ. P. 55. First, a party seeking a default judgment must inform the Clerk of Court "by affidavit or otherwise" that the opposing party has failed to plead or otherwise respond, and then must request that the Clerk enter default on the docket. Fed. R. Civ. P. 55(a). Second, after the Clerk's entry of default, the plaintiff may move the Court for default judgment. Fed. R. Civ. P. 55(b)(2). Here, plaintiff has not asked the Clerk to enter default against defendants under Rule 55(a). Thus, the Court concludes that plaintiff's motion is premature and the Court thus denies it. *See Flohrs v. Eli Lilly & Co.*, No. 12-2439-SAC, 2012 WL 5266116, at \*1 (D. Kan. Oct. 23, 2012) ("Entry of default is a prerequisite to

default judgment.”). Plaintiff may renew its motion when the Clerk has acted in the manner required by the rule.

**IT IS THEREFORE ORDERED BY THE COURT THAT** plaintiff’s Motion for Default Judgment (Doc. 6) is denied without prejudice.

**IT IS SO ORDERED.**

**Dated this 5th day of November, 2015, at Topeka, Kansas.**

**s/ Daniel D. Crabtree**  
**Daniel D. Crabtree**  
**United States District Judge**