IN THE UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

|  |  |  |  |
| --- | --- | --- | --- |
| |  | | --- | | {plaintiff\_name},  {plaintiff\_number},  vs.  {defendant\_name},  {defendant\_number}. |   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | )  )  )  )  )  )  )  )  )  )  ) | CASE NO. {case\_number}  **MOTION FOR**  **DEFAULT JUDGMENT** |

{county\_name\_allCaps} DIVISION

Pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, the plaintiff respectfully requests that the Court enter default judgment in {plaintiff\_sex} favor and schedule a damages hearing. More than thirty (30) days have passed since {defendants\_for\_default} was served, and no responsive pleadings have been filed {by\_the\_defendant} or served on the plaintiff.

**FACTUAL BACKGROUND**

**Case specific background**

**LEGAL STANDARD**

Rule 55 of the Federal Rules of Civil Procedure outlines general provisions governing default; default judgment. Rule 55(b)(2) provides,

In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may conduct hearings or make referrals—preserving any federal statutory right to a jury trial—when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

Rule 50(a)2 states,

A motion for judgment as a matter of law may be made at any time before the case is submitted to the jury. The motion must specify the judgment sought and the law and facts that entitle the movant to the judgment.

**ARGUMENT**

The *Federal Rules of Civil Procedure* mandate that a defendant either file an answer or request an extension of time to answer within thirty (30) days of service of the complaint. The {defendants\_have\_done} neither, as shown by the attorney’s Affidavit of Default. Pursuant to the Rules, the {defendants\_are\_in\_default} and a damages hearing should be held. Pursuant to Rule 55(a), “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” The plaintiff therefore requests that the clerk enter a default judgment and set a date for the Court to determine the appropriate damages to be awarded to the plaintiff.

In the alternative, the plaintiff respectfully requests that the Court grant summary judgment to the plaintiff. Requests for Admission were served with the complaint. Responses were due 45 days later, on {date\_45\_days\_after\_filing\_date}, for {defendants\_for\_default}. As of the filing of this motion, the plaintiff has not received any responses to Requests for Admission. The requests are therefore deemed admitted, proving the plaintiff’s case. There is no genuine issue as to any material fact, and summary judgment is proper. If the Court denies the plaintiff’s motion for default, then the plaintiff respectfully requests that the Court grant summary judgment.

**CONCLUSION**

For the reasons set forth herein, the plaintiff respectfully requests that the Court enter default judgment in their favor and schedule a damages hearing.

Respectfully Submitted,

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*{s\_attorney\_filing}*

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