

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

JAMES R. RECKER II, )  
Plaintiff, )  
 )  
vs. ) 1:14-cv-00493-JMS-DML  
 )  
IMC CREDIT SERVICES, LLC, )  
Defendant. )

**ORDER**

Plaintiff James R. Recker II has moved for default judgment in his favor against Defendant IMC Credit Services, LLC (“IMC”). [[Filing No. 5.](#)] For the following reasons, Mr. Recker’s motion is denied.

First, there is no evidence that Mr. Recker served the Complaint on IMC. Mr. Recker states in his Motion for Default Judgment that “Defendant’s Registered Agent was served with the Summons an[d] Complaint March 31, 2014 via First Class United States Mail by the Clerk of the Court (Docket Entry Three).” [[Filing No. 5 at 1.](#)] But “Docket Entry Three” simply reflects that the Clerk of the Court issued a Summons on March 31, 2014. [[Filing No. 3.](#)] It is Mr. Recker’s responsibility to serve the issued Summons and the Complaint on IMC, and to provide the Court with proof that service has been made. There is no such proof in the record and, indeed, it appears that Mr. Recker has the mistaken belief that the Clerk of the Court served IMC.

Further, Rule 55 of the Federal Rules of Civil Procedure sets forth a two-step process for a party seeking default judgment. [[McCarthy v. Fuller, 2009 WL 3617740, \\*1 \(S.D. Ind. 2009\).](#)] First, the plaintiff must obtain an entry of default from the clerk. *Id.* Second, after obtaining that entry, the plaintiff may seek an entry of default judgment. *Id.* Because Mr. Recker filed his Motion for Default Judgment before obtaining an entry of default from the clerk – thus skipping the

first step in the two-step process – he prematurely filed the pending motion. *See* [Fed. R. Civ. P. 55\(a\)](#).

For these reasons, Plaintiffs’ Motion for Default Judgment, [[Filing No. 5](#)], is **DENIED without prejudice**.

**Distribution via ECF only:**

James Richard Recker  
jamesrecker@justice.com

**Distribution via U.S. Mail:**

IMC Credit Services, LLC  
c/o Corporation Service Company  
251 East Ohio Street, Ste. 500  
Indianapolis, Indiana 46204-2184