

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAYMOND BRESETTE, #217468,

Plaintiff,

v.

OFFICER STEVE KNUDSEN,
SHERIFF ROBERT FOLLIS and
LARRY WEBER,

Defendants.

ORDER

06-C-280-C

Plaintiff Raymond Bresette has filed a document titled "Motion for Default Judgment," which I construe as a motion for entry of default pursuant to Fed. R. Civ. P. 55(a).

Fed. R. Civ. P. 55(a) states:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

Defendants in this case have answered plaintiff's complaint and moved for summary judgment. They have not failed to plead or defend the action.

Plaintiff suggests that he is entitled to the entry of default because defendants failed to respond to his September 11, 2006 discovery requests. This issue was addressed in the magistrate judge's order of October 23, 2006, denying plaintiff's motion to compel discovery. As the magistrate judge told plaintiff in that order, defendants have now responded to his September 11 discovery requests. Although defendants' responses were tardy, plaintiff is not entitled to the severe sanction of judgment in his favor for this infraction. It is enough that the magistrate judge has cautioned defendants to be diligent in their obligation to respond to discovery requests within the time allowed under the rules of civil procedure and has warned defendants that their failure to do so will result in sanctions under rule 37(b).

ORDER

IT IS ORDERED that plaintiff's motion for entry of default pursuant to Fed. R. Civ. P. 55(a) is DENIED.

Entered this 26th day of October, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge