Amy Weber

452 B North 8th Street

Fairview, NJ 07022

Phone: 917-847-5026

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UNITED STATES DISTRICT COURT

OF THE DISCTRICT OF NEW JERSEY

AMY WEBER

Plaintiff, Civil Action

v. **CERTIFICATION OF AMY WEBER**

**IN SUPPORT OF DEFAULT**

MCGROGAN, FRANCES A. et al.

Defendants,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AMY WEBER, of full age, being duly sworn hereby certifies as follows:

1. I am the Pro Per Plaintiff on the above matter.
2. I am familiar with the facts and circumstances of the within action.
3. The Complaint in this action was served on the Defendant STATE OF NEW JERSEY, on December 16th, 2014, as appears from the attached Affidavit of Service from my personal server Laura Emilia Ordaz Moreno from Vernon, NJ Sussex County.
4. The time within which Defendant STATE OF NEW JERSEY may answer or otherwise moved as to the complaint has expired and has not been extended. Defendant STATE OF NEW JERSEY did not answered or otherwise moved as to the Complaint within the time limit established by the Federal Rules.

I certified that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am object to punishment.

Dated: May 19, 2015 BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AMY WEBER  
 Pro Per Plaintiff

AMY WEBER

452-B North 8th Street

Fairview, NJ 07022

(917) 847-5026

May 6, 2015

**Via Regular Mail and Certified Mail**

United States District Court for the

Newark District of New Jersey

Martin Luther King Building

& U.S. Courthouse

50 Walnut Street

Newark, NJ 07101

Honorable Claire C. Cecchi U.S.D.J

RE: **WEBER,** Amy v. **MCGROGAN,** Frances A. et al

**Case Number:** 14-CV-07340

Dear Judge Cecchi:

Kindly please accept this Letter Brief in Lieu of a more formal brief in support of Plaintiff’s application to enter Default Judgment on behalf of Plaintiff WEBER and Minor KEITH ALEXANDER for Defendant STATE OF JERSEY STATE failure to answer to Plaintiff WEBER AND MINOR KEITH ALEXANDER’S Complaint. Plaintiff WEBER and Minor KEITH ALEXANDER submit the following letter brief in support of her demands.

"Pleadings in this case are being filed by Plaintiff In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. *See Powell v. Lennon, 914 F.2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). Also See Hall v. Bellmon 935 F.2d 1106 (10th Cir. 1991)."*

In the case of Puckett v. Cox, 456 F. 2d 233 (1972 Sixth Circuit USCA). The court held that a pro-se pleading requires less stringent reading than one drafted by a lawyer.

**LEGAL ARGUMENT**

**POINT I**

**DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT MUST BE DISMISSED FOR FAILURE TO TIMELY ANSWER PLAINTIFF’S COMPLAINT PURSUANT FEDERAL RULE 55**

*Pursuant the Federal Rule of Civil Procedure Rule 55 Default and Default Judgment states:*

(a) Entering a Default. 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.

In this case Defendant STATE OF NEW JERSEY failed to answer or otherwise defend Plaintiff WEBER and Minor KEITH ALEXANDER’S complaints.

Plaintiff WEBER and Minor KEITH ALEXANDER served Defendant STATE OF NEW JERSEY on December 16th, 2014and opted to ignore Plaintiff’s complaints.

On the Federal Rules of Civil Procedure Rule 12 states:

(a) Time to Serve a Responsive Pleading.

(1) In General. Unless another time is specified by this rule or a federal statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 21 days after being served with the summons and complaint; or

(ii) if it has timely waived service under Rule 4(d), within 21 days after the request for a waiver was sent, or within 90 days after it was sent to the defendant outside any judicial district of the United States.

In this case Defendant STATE OF NEW JERSEY failed to answer the complaint within the 21 days establish by the Federal Rule 12.

Defendant STATE OF NEW JERSEY did not waived service and did not resided outside the United States, which grants them no additional time to answer Plaintiff WEBER and KEITH ALEXANDER’S complaint;

(B) A party must serve an answer to a counterclaim or cross claim within 21 days after being served with the pleading that states the counterclaim or cross claim.

(C) A party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time.

In this case Defendant STATE OF NEW JERSEY exceeded the 21 days after serving which granted an extension to answer Plaintiff WEBER and Minor KEITH ALEXANDER’S complaint and ***failed*** in answering Plaintiff’s complaint.

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and

(7) failure to join a party under Rule 19.

In this case Defendant STATE OF NEW JERSEY made no claims mentioned above but stated that they will seek contribution to settlement if reach with other Defendants without need to file a cross-claim against other Defendants.

This statement is a clear indication of recognition of wrongdoing to Plaintiff WEBER and her Minor son KEITH ALEXANDER that Plaintiff annexes for Your Honors easy referral.

In this case against Defendant STATE OF NEW JERSEY there is no need to present a claim as Defendants inculpate themselves of the wrongful acts they committed against Plaintiff WEBER and Minor KEITH ALEXANDER

(b) Entering a Default Judgment.

(1) By the Clerk. If the plaintiff WEBER and KEITH ALEXANDER’S claim is for a sum certain or a sum that can be made certain by computation, the clerk—on the plaintiff WEBER and Minor KEITH ALEXANDER request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

(2) By the Court. 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.

Plaintiff also alleges that defendant STATE OF NEW JERSEY ' misconduct was "wanton and willful" and that defendants refused to acknowledge their errors or take any steps to correct them. Those allegations, if proven true, establish a colorable right to recover punitive damages under state law. As such, plaintiff WEBER and Minor KEITH ALEXANDER’S claim for punitive damages was sufficient to satisfy the jurisdictional amount for diversity jurisdiction.

In the case of Hritz v. Woma Corp., 732 F.2d 1178 Plaintiffs, an injured worker and his wife, filed an action against defendant mining equipment distributor for damages resulting from injuries suffered in a mining accident. Defendant STATE OF NEW JERSEY failed to respond to the complaint or to plaintiffs' motion for a default judgment pursuant to *Fed. R. Civ. P. 55,* and the district court entered a default judgment. Four months later, defendant filed a motion to set aside the judgment. The district court denied the motion, and defendant appealed.

In this case Defendants STATE OF NEW JERSEY never explained to the court of Plaintiff WEBER and Minor KEITH ALEXANDER the reasons they had to delay or not respond to Plaintiff WEBER and KEITH ALEXANDER’s complaint, they just took on their hands to answer whenever they felt like, demonstrating not only disrespect for Plaintiff WEBER and Minor KEITH ALEXANDER and discrimination for been a Pro Per litigant but for this Honorable Court that has its rules establish for years or hard work.

**CONCLUSION**

In conclusion, Plaintiff request to this Honorable Court to deny any motion or answer from Defendant STATE OF NEW JERSEY and issue a Default Judgement in favor of Plaintiff WEBER and Minor KEITH ALEXANDER that due to her Pro Per status has struggled to learn and shoe respect to this Honorable Court.

Respectfully Yours

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Amy Weber

Pro Per Plaintiff