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

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Richard Walker,

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CV-07-366-PHX-JAT

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Plaintiff,

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v.

ORDER

10

Robert J. Locke, Lisa Heckendorn Vollmer
Locke,

)

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Defendants.

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Plaintiff has filed a Motion to Strike Answer, for Entry of Default Against Defendant Robert J. Locke, and For an Order to Show Cause Why a Default Judgment Should not be Entered Against Defendants (Doc. #42). The Court now rules on the Motion.

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Plaintiff has moved pursuant to Federal Rule of Civil Procedure 37(d) to strike Defendant Robert J. Locke’s Answer for failure to appear at his deposition, failure to answer discovery requests, and general failure to communicate with Plaintiff’s counsel. Since his counsel left the case, Mr. Locke has not responded to any of Plaintiff’s inquiries. Nor did Mr. Locke submit his portion of the Proposed Final Pretrial Order as required by this Court¹. Because of Mr. Locke’s failure to participate in the litigation, Plaintiff has asked for an entry of default against him.

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Mr. Locke has failed to appear or otherwise defend himself in this case for months, including not appearing for his scheduled deposition without any explanation. He has also

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¹The Clerk entered default against Mrs. Locke on September 17, 2007. She has never appeared in this action.

1 disobeyed a Court order to participate in the filing of a Proposed Final Pretrial Order. The
2 Court therefore will strike his Answer at Docket Number 7 and direct the Clerk to enter
3 default against him.

4 Accordingly,

5 IT IS HEREBY ORDERED GRANTING Plaintiff's Motion to Strike Answer, for
6 Entry of Default Against Defendant Robert J. Locke, and For an Order to Show Cause Why
7 a Default Judgment Should not be Entered Against Defendants (Doc. #42).

8 IT IS FURTHER ORDERED striking Defendant Robert J. Locke's Answer (Doc. #7).

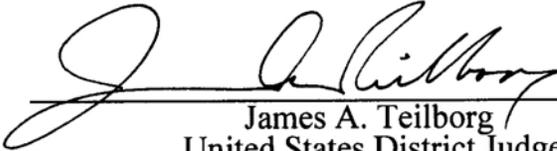
9 IT IS FURTHER ORDERED that the Clerk of the Court shall enter Default against
10 Defendant Robert J. Locke.

11 IT IS FURTHER ORDERED that within 15 days of receiving this Order, Plaintiff
12 shall file a properly-supported Rule 55(b) motion for default judgment against both
13 Defendants. The motion shall include a proposed amount of damages; and Plaintiff shall
14 attach to the motion a Proposed Form of Default Judgment.

15 IT IS FURTHER ORDERED that the parties shall appear before this Court at 11:00
16 a.m. on Monday, April 27, 2009 for a hearing. At the hearing, Defendants shall appear and
17 show cause why Default Judgment should not be entered against them and/or to dispute the
18 amount of damages claimed by Plaintiff. Plaintiff shall present evidence to support his
19 requested damages.

20 IT IS FURTHER ORDERED vacating the Final Pretrial Conference currently set for
21 February 17, 2009.

22 DATED this 3rd day of February, 2009.

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26 James A. Teilborg
27 United States District Judge
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