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

Daniel M. Bustamante,)	No. CV07-940-PHX-DGC (JRI)
)	
Plaintiff,)	ORDER
)	
v.)	
)	
Hector Gonzales, et al.,)	
)	
Defendants.)	

Pending before the Court is Defendant Maish’s motion to set aside entry of default and United States Magistrate Judge Irwin’s Report and Recommendation (“R&R”). Dkt. ##81, 85. The R&R recommends that the default entered against Defendant Maish on April 14, 2009 (Dkt. #80) be set aside and that Defendant Maish have ten days from entry of this order to file an answer or otherwise respond to the second amended complaint. The Magistrate Judge advised the parties that they had ten days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 3-4 (citing Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

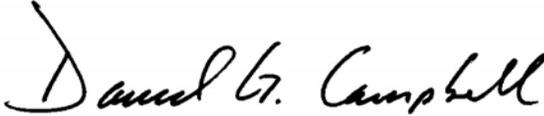
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.”). The

1 Court will accept the R&R and set aside the default entered against Defendant Maish on
2 April 14, 2009 (Dkt. #80). *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may
3 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
4 magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the
5 recommended disposition; receive further evidence; or return the matter to the magistrate
6 judge with instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Irwin’s R&R (Dkt. #85) is **accepted**.
9 2. The default entered against Defendant Maish on April 14, 2009 (Dkt. #80) is
10 **set aside**.
11 3. Defendant Maish shall file an answer or otherwise respond to the second
12 amended complaint (Dkt. #54) on or before **June 30, 2009**.

13 DATED this 17th day of June, 2009.

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David G. Campbell
United States District Judge
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