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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD R. LEACH,

1:00-cv-06139-LJO-GSA-PC

Plaintiff,

ORDER DENYING PLAINTIFF’S
MOTION FOR ENTRY OF DEFAULT
(Doc. 136.)

vs.

TOM CAREY, T. DREW,
D. SCHROEDER, and HAWS,

Defendants.

I. BACKGROUND

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Donald R. Leach (“Plaintiff”), a state prisoner proceeding pro se. Plaintiff is presently incarcerated at Kern Valley State Prison in Delano, California. Plaintiff filed the Complaint commencing this action on August 2, 2000. (Doc. 1.) On December 17, 2010, Plaintiff and Defendants participated in settlement proceedings before Magistrate Judge Jennifer L. Thurston, and the case was settled. (Doc. 125.) On January 3, 2011, the case was dismissed, with prejudice, pursuant to the parties' stipulation. (Doc. 127.)

On November 14, 2011, Plaintiff filed a motion to compel Defendants to abide by the parties' settlement agreement. (Doc. 132.) On February 21, 2012, Plaintiff filed a motion for entry of

1 default against Defendants. (Doc. 136.) The Court here addresses Plaintiff's motion for entry of
2 default.¹

3 **II. PLAINTIFF'S MOTION FOR DEFAULT**

4 Plaintiff argues that he is entitled to entry of default against Defendants because they failed to
5 file a timely response to Plaintiff's motion to compel. However, according to the court's record,
6 Defendants' response to the motion to compel was filed in a timely manner. On February 9, 2012,
7 the court entered an order which excused Defendants from filing their response to the motion to
8 compel until February 29, 2012. (Doc. 135.) Defendants filed their response on February 28, 2012,
9 one day before the deadline. (Doc. 137.) Thus, Defendants' response was timely and therefore,
10 Plaintiff's motion for entry of default shall be denied.

11 **III. CONCLUSION**

12 Accordingly, in light of the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
13 entry of default, filed on February 21, 2012 is DENIED.

14
15 IT IS SO ORDERED.

16 **Dated: March 21, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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¹Plaintiff's motion to compel is addressed in a separate order.