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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

EDWARD DEMERSON,

Plaintiff,

v.

JEANNE S. WOODFORD, et al.,

Defendants.

CASE NO. 1:08-cv-00144-LJO-SKO PC

ORDER DISCHARGING ORDER TO SHOW CAUSE

(Doc. 91)

ORDER GRANTING PLAINTIFF’S MOTIONS FOR ENTRY OF DEFAULT AGAINST DEFENDANT GREGORY, AND DIRECTING CLERK’S OFFICE TO SERVE COURTESY COPY OF ORDER ON SATF LITIGATION OFFICE AND CDCR LEGAL AFFAIRS

(Docs. 101 and 107)

Plaintiff Edward Demerson, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 29, 2008. On June 8, 2011, the Court ordered Defendants Gregory and Hillard to show cause why default should not be entered against them for failing to respond to Plaintiff’s second amended complaint. Defendant Hillard responded to the order and filed a motion to dismiss. Defendant Gregory did not respond and Plaintiff subsequently filed a motion for entry of default against on July 18, 2011, and an amended motion for entry of default on August 15, 2011.

“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.” Fed. R. Civ. P. 55(a). Here, the United States Marshal certified that on May 12,

1 2011, personal service was effected on Defendant Gregory via Francisco Villa, Office Technician  
2 at SATF. (Doc. 85.) Despite service of the order to show cause on the other defendants' attorney  
3 of record, the Litigation Office at the California Substance Abuse Treatment Facility (SATF), and  
4 the Legal Affairs Division of the California Department of Corrections and Rehabilitation (CDCR),  
5 Defendant Gregory did not respond to the order to show cause or file a response to Plaintiff's second  
6 amended complaint. Given the evidence that personal service was effected, default must be entered  
7 against Defendant Gregory. Fed. R. Civ. P. 55(a).

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. The order to show cause filed on June 8, 2011, is DISCHARGED;
- 10 2. Plaintiff's motions for entry of default are GRANTED and the Clerk of the Court  
11 shall enter default against Defendant Gregory; and
- 12 3. As a courtesy, the Clerk of the Court is DIRECTED to serve a copy of this order on  
13 the Litigation Office at SATF and the Legal Affairs Division of CDCR.

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17 IT IS SO ORDERED.

18 **Dated: November 2, 2011**

**/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**