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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

JESUS SOSA,

Plaintiff,

v.

BRIDGE STORE INC. et al.,

Defendants.

CASE NO. 1:10-cv-01494-OWW-SKO

Related Case No.:  
10-cv-1577 OWW SKO

**ORDER RE MOTION TO SET ASIDE  
ENTRY OF DEFAULT**

On August 19, 2010, Plaintiff Jesus Sosa ("Plaintiff") filed a complaint against Defendants Bridge Store Inc. and Nishimoto Company, Inc. ("Defendants") asserting violations of the Americans with Disabilities Act of 1990. (Doc. 2.) On September 23, 2010, Plaintiff filed copies of the executed summons served on Defendants. (Docs. 7, 8.) On November 17, 2010, Plaintiff requested an entry of default against Defendants for failure to file an answer or otherwise respond to the complaint. (Docs. 9, 10.) On November 17, 2010, the Clerk of Court entered the default of both Defendants. (Docs. 11, 12.)

On January 31, 2011, Defendants filed a Motion to Set Aside the default asserting that the complaint was not properly served. Defendants also assert that their counsel informed Plaintiff's counsel that Defendants disputed service. Plaintiff's counsel represented that she was going to serve an amended complaint but did not do so, and instead, requested an entry of default. (Doc. 14-2, ¶¶

1 4-8.) Defendants' counsel filed an affidavit stating that he had met and conferred with Plaintiff's  
2 counsel regarding Defendants' Motion to Set Aside, and Plaintiff's counsel represented that Plaintiff  
3 would not oppose the motion. (Doc. 14-2, ¶ 11.)

4 The hearing on Defendants' Motion to Set Aside the default is set for April 6, 2011. Pursuant  
5 to the Local Rules, any opposition must be filed at least 14 days prior to the hearing date. Local Rule  
6 230(c). However, given counsel for Defendants' declaration that Plaintiff's counsel represented  
7 Plaintiff would not oppose the motion, the Court finds that it is in the interest of efficiency to require  
8 Plaintiff to file any opposition to the motion or a statement of non-opposition sooner than  
9 contemplated by the Local Rules.

10 Accordingly, the Court HEREBY ORDERS THAT:

- 11 1. Plaintiff must file **either an opposition or a statement of non-opposition to**  
12 **Defendants' Motion to Set Aside on or before February 23, 2011;** and
- 13 2. Defendant may file an optional reply to any opposition on or before **March 2, 2011.**

14  
15 IT IS SO ORDERED.

16 **Dated: February 8, 2011**

17 /s/ Sheila K. Oberto  
18 UNITED STATES MAGISTRATE JUDGE