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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL MCNEIL,

Plaintiff,

v.

LVN HAYES, et al.,

Defendants.

CASE NO. 1:10-cv-01746-AWI-SKO PC

ORDER STRIKING NOTICE REGARDING  
INTENT TO SEEK ENTRY OF DEFAULT

(Doc. 47)

Plaintiff Michael McNeil, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 23, 2010. On February 11, 2013, Plaintiff filed a notice warning Defendants Soto, Raman, and Byers of his intent to move for entry of default within seven days.

Plaintiff incorrectly states that Defendants are in default. Fed. R. Civ. P. 55(a). On February 4, 2013, the Court ordered Defendants to file a response to Plaintiff's second amended complaint within fifteen days. In accordance with the Federal Rules of Civil Procedure, Defendants have until February 22, 2013, within which to file their response. Fed. R. Civ. P. 6(a), (d). Defendant Byers timely filed an answer on February 12, 2013, and the deadline for Defendants Soto and Raman to respond has not expired.

Accordingly, Defendants are not in default and Plaintiff's notice of intent to file a motion seeking entry of default is HEREBY ORDERED STRICKEN from the record.

IT IS SO ORDERED.

**Dated: February 13, 2013**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE