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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRADY K. ARMSTRONG,

Plaintiff,

v.

S. DISHMAN, et al.,

Defendants.

Case No. 1:10-cv-02380-LJO-DLB PC

**ORDER DIRECTING CLERK OF THE
COURT TO ENTER DEFAULT AGAINST
DEFENDANT DISHMAN**

ECF Nos. 43, 44

Plaintiff Brady K. Armstrong (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil action filed pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendant S. Dishman for retaliation in violation of the First Amendment and deliberate indifference in violation of the Eighth Amendment. On May 1, 2012, a waiver of service was returned as to Defendant Dishman, with a responsive pleading deadline of May 25, 2012. As of the date of this order, Defendant has not filed a responsive pleading or otherwise responded. July 16, 2012 and October 11, 2012, Plaintiff moved for the Court to order Defendant Dishman to respond to Plaintiff’s complaint and to enter default against her. ECF Nos. 43, 44. The matter is submitted pursuant to Local Rule 230(l).

“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 return of the waiver of service indicates that Defendant Dishman received service of the complaint, but has failed to file a responsive pleading. Defendant

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Dishman has thus failed to plead or otherwise defend in this action. Accordingly, the Clerk of the Court is directed to enter default against Defendant Dishman.

IT IS SO ORDERED.

Dated: November 8, 2012

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE