

1 into the instant action. The Court neither required Plaintiff to file an amended complaint consolidating
2 his allegations, nor did it order Defendants to file a consolidated answer. (ECF No. 40.)

3 On April 14, 2014, Plaintiff filed the instant motion for default judgment. Although difficult to
4 discern, it appears that Plaintiff seeks default judgment against Defendant Balcagon based on an
5 apparent belief that the Court has not screened the two joined cases and that Defendant Balcagon has
6 not submitted an answer to the joined cases. Plaintiff also claims that Defendants have failed to
7 comply with discovery. (ECF No. 52.)

8 Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two-step
9 process. Hollis v. York, 2012 WL 1345754, *1 (E.D. Cal. Apr. 16, 2012). Entry of default is
10 appropriate as to any party against whom a judgment for affirmative relief is sought that has failed to
11 plead or otherwise defend as provided by the Federal Rules of Civil Procedure and where that fact is
12 made to appear by affidavit or otherwise. Fed. R. Civ. P. 55(a). After entry of default, the plaintiff
13 can seek entry of default judgment. Fed. R. Civ. P. 55(b)(1) and (2). “Default judgments are
14 generally disfavored, and whenever it is reasonably possible, cases should be decided upon their
15 merits.” In re Hammer, 940 F.2d 524, 525 (9th Cir. 1991) (internal punctuation and citations omitted).

16 Here, Plaintiff may not receive an entry of default judgment, because there has been no entry
17 of default against Defendant Balcagon. As indicated above, Defendant Balcagon has answered and
18 appeared in this action, rendering default unavailable. Further, the Court has not ordered a
19 consolidated complaint or an answer to any such complaint. Plaintiff’s remaining assertions regarding
20 discovery responses are unavailing.

21 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for default judgment, filed
22 April 14, 2014, is DENIED.
23 IT IS SO ORDERED.

24 Dated: April 16, 2014

/s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE