

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IRA GREEN,

Plaintiff,

v.

JOHN CHAKOTOS, et al.,

Defendants.

Case No. 1:11-cv-01611-LJO-DLB PC

**ORDER DENYING PLAINTIFF'S
MOTIONS FOR DEFAULT AND
DEFAULT JUDGMENT (ECF Nos. 16, 17)**

Plaintiff Ira Green ("Plaintiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. On September 22, 2011, Defendants John Chakotos and Igbinsosa removed this action from Fresno County Superior Court. On October 17, 2012, Plaintiff filed a motion requesting entry of default and default judgment against Defendants. ECF Nos. 16, 17. On November 7, 2012, Defendants filed their opposition. ECF No. 19. The matter is submitted pursuant to Local Rule 230(1).

"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).

On August 22, 2012, the undersigned issued Findings and Recommendations, recommending the dismissal of Plaintiff's state law claims for failure to plead compliance with the California Tort Claims Act. On September 7, 2012, Plaintiff filed his objections to the Findings and

1 Recommendations. Plaintiff included as an exhibit a letter from the Victim Compensation and
2 Government Claims Board regarding his claim. Accordingly, on October 10, 2012, the Court
3 granted Plaintiff leave to file a first amended complaint. The Court also advised the parties that it
4 will screen Plaintiff's amended complaint pursuant to 28 U.S.C. § 1915A(a) prior to requiring
5 Defendants to file a responsive pleading. Defendants contend that Plaintiff's motions for entry of
6 default and default judgment are moot. The Court agrees with Defendants.

7 Accordingly, it is HEREBY ORDERED that Plaintiff's motions for entry of default and
8 default judgment, filed October 17, 2012, are denied.

9
10
11 IT IS SO ORDERED.

12 Dated: November 21, 2012

/s/ Dennis L. Beck
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28