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

WILLIAM LUNA,	)	Case No.: 1:13-cv-00822-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DENYING PLAINTIFF’S REQUEST
v.	)	FOR ENTRY OF DEFAULT AS TO DEFENDANT
	)	WALLACE AS PREMATURE
MATTHEW CATE, et al.,	)	
	)	[ECF No. 48]
Defendants.	)	
	)	
	)	

Plaintiff William Luna is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 13, 2015, Plaintiff filed a request for entry of default as to Defendant Wallace.

Rule 12(a)(1)(A)(ii) of the Federal Rules of Civil Procedure provides that a defendant that has timely waived service under Rule 4(d) must respond “within 60 days after the request for a waiver was sent, or within 90 days after it was sent to the defendant outside any judicial district of the United States.” Fed. R. Civ. P. 12(a)(1)(A)(ii).

Rule 55(a) of the Federal Rules of Civil Procedure requires the Clerk of the Court to enter default “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.” Fed. R. Civ. P. 55(a).

Plaintiff’s motion must be denied. Pursuant to the waiver of service, Defendant L. Wallace was required to file a response to the complaint sixty days after March 13, 2015. (ECF No. 42.)

1 However, on May 12, 2015, Defendant Wallace, along with other named defendants, filed a motion  
2 for an extension of time to file a response. (ECF No. 46.) Defendants' request was granted on May  
3 13, 2015, and a response to the complaint is due thirty days from the date of service of the order.  
4 (ECF No. 47.) Accordingly, Plaintiff's motion for entry of default is be DENIED as premature.

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6 IT IS SO ORDERED.

7 Dated: May 14, 2015



8 UNITED STATES MAGISTRATE JUDGE

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