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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL G. VALENCIA,

 Plaintiff,

 v.

WINFRED KOKOR,

 Defendant.

Case No. 1:13-cv-01391 LJO DLB PC

ORDER DENYING PLAINTIFF’S
MOTION FOR ENTRY OF DEFAULT

(Document 76)

Plaintiff Daniel G. Valencia (“Plaintiff”) is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. The action is proceeding on Plaintiff’s Second Amended Complaint, which states a claim under the Eighth Amendment against Defendants Kokor and Sundaram.

Pursuant to the Court’s January 14, 2016, order, Defendant Kokor filed his answer on February 16, 2016. Defendant Sundaram filed a motion to dismiss, which is pending.

On March 7, 2016, Plaintiff filed a motion for entry of default against Defendant Kokor. He contends that pursuant to the January 14, 2016, order, Defendant Kokor’s answer should have been filed two days earlier.

Defendant Kokor first appeared in this action in 2014, and default is not available. Fed.R.Civ.P. 55.

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Plaintiff is also incorrect in characterizing his answer as untimely. Defendant Kokor's answer was timely filed on February 16, 2016, given the weekend days and the February 15, 2016, legal holiday. Fed.R.Civ.P. 6(a).

Plaintiff's motion is DENIED.

IT IS SO ORDERED.

Dated: March 8, 2016

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE