## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 MICHAEL BIRD, Case No.: 1:15-cv-00298-LJO-SAB (PC) ORDER DIRECTING DEFENDANT MAYHEW 12 Plaintiff, TO FILE A RESPONSE TO PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT, FILED 13 v. MARCH 23, 2015 14 DONALD MAYHUE, et al., [ECF No. 10] 15 Defendants. 16 Plaintiff Michael Bird is appearing pro se and in forma pauperis in this civil rights action 17 pursuant to 42 U.S.C. § 1983. 18 On February 25, 2015, the instant action was removed from the California Superior Court for 19 20 the County of Madera by Defendant D. Mayhew. 21 On March 23, 2015, Plaintiff filed a request for entry of default as to Defendant Mayhew pursuant to Rules 55 and 81 of the Federal Rules of Civil Procedure (ECF No. 10). Rule 81(c) 22 23 provides that a defendant who did not answer before removal must answer or present other defenses or 24 objections within the longest of these periods: (A) 21 days after receiving—through service or otherwise—a copy of the initial pleading 25 26 stating the claim for relief; 27 (B) 21 days after being served with the summons for an initial pleading on file at the 28 of service;

(C) 7 days after the notice of removal is filed.

Fed. R. Civ. P. 81(c)(2)(A)-(C).

Defendant Mayhew received notice of Plaintiff's request for entry of default by way of the Court's electronic case filing system on March 24, 2015. Under Local Rule 230(l), "[o]pposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21) days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions." See E.D. Cal. Local Rule 230(l).

On April 10, 2015, Defendants Curtice, Montoya, Roberts and the California Department of Corrections and Rehabilitation filed a joinder in Defendant Mayhew's notice of removal, and request they be granted thirty (30) days after the screening order to file a responsive pleading to Plaintiff's complaint. (ECF No. 14.) Despite the April 10, 2015, filing, Defendant Mayhew has not filed an opposition or statement of no opposition to Plaintiff's request for entry of default within the twenty-one day time frame, and the Court shall direct Defendant Mayhew to do so in compliance with Local Rule 230(1).

Based on the foregoing, it is HEREBY ORDERED that within **fifteen (15)** days from the date of service of this order, Defendant Mayhew shall file an opposition or statement of no opposition to Plaintiff's request for entry of default, filed March 23, 2015.

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IT IS SO ORDERED.

Dated: **April 20, 2015** 

UNITED STATES MAGISTRATE JUDGE