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

SANDRA GARYBO, et al.,	)	Case No.: 1:15-cv-01487 - DAD- JLT
Plaintiffs,	)	
v.	)	ORDER DROPPING THE APPLICATION FOR
LEONARDO BROS., et al.,	)	DEFAULT JUDGMENT AND REQUIRING THE
Defendants.	)	PLAINTIFFS TO FILE A MOTION FOR CLASS
	)	CERTIFICATION, AN AMENDED
	)	APPLICATION FOR DEFAULT JUDGMENT OR
	)	A VOLUNTARY DISMISSAL

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On July 13, 2018, the Court ordered the plaintiff to show cause why sanctions should not be imposed for his failure to prosecute this action. (Doc. 55) At that time, the Court observed that the only remaining defendant in this action was Leonardo Bros. *Id.* The Court noted also that Clerk of the Court had entered default against this defendant (Doc. 22) on March 24, 2016 after requested by the plaintiff. Consequently, the Court ordered the plaintiff to take some action to move this case forward, either to seek default judgment or to dismiss the case in full. *Id.*

The plaintiffs have voluntarily dismissed the action as to the other defendants. Notably, these dismissals were silent as to whether the dismissal was without prejudice to the putative class. As a result, the class claims are preserved. No class has been certified and the plaintiff has not sought approval of a class settlement.

Nevertheless, in his application for default judgment, the plaintiff seeks class-wide damages and, seemingly, seeks class certification concurrently. The Court finds the application for default

1 judgment to be an inappropriate and unwieldy method for seeking class certification. Thus, the Court

2 **ORDERS:**

- 3 1. The application for default judgment is **DROPPED** from calendar;
- 4 2. **Within 21 days** the plaintiff SHALL: 1.) file a motion for class certification and, once
- 5 that is decided, file an application for default judgment; 2.) file an amended application for default
- 6 judgment limited to his individual damages; or 3.) file a voluntary dismissal of the entire action.

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8 IT IS SO ORDERED.

9 Dated: August 9, 2018

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE