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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BMO HARRIS BANK N.A.,
Plaintiff,
v.
CHARAN SINGH,
Defendant.

Case No. 1:16-cv-0000482-DAD-SAB
ORDER REQUIRING PLAINTIFF TO EITHER
SHOW CAUSE WHY THIS ACTION SHOULD
NOT BE DISMISSED FOR FAILURE TO
PROSECUTE OR FILE A MOTION FOR ENTRY
OF DEFAULT WITHIN THIRTY DAYS

Plaintiff BMO Harris Bank N.A. filed this action on April 6, 2016. (ECF No. 1.) Plaintiff served the complaint on April 21, 2016. (ECF No. 5.) When Defendant failed to file an answer, Plaintiff requested entry of default and default was entered on June 3, 2016. (ECF Nos. 8, 9.)

Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two step process. Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, *2 (N.D.Cal. Feb, 11, 2008). Entry of default is appropriate as to any party against whom a judgment for affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R. Civ. P. 55(a). After entry of default, the plaintiff can seek entry of default judgment. Fed. R. Civ. P. 55(b)(1) and (2). “Default judgments are generally disfavored, and whenever it is reasonably possible, cases should be decided upon their merits.” In re Hammer, 940 F.2d 524, (9th Cir. 1991) (internal punctuation and citations omitted).

1 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules
2 or with any order of the Court may be grounds for imposition by the Court of any and all
3 sanctions . . . within the inherent power of the Court.” The Court has the inherent power to
4 control its docket and may, in the exercise of that power, impose sanctions where appropriate,
5 including dismissal of the action. Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir.
6 2000).

7 Within thirty days from the date of service of this order, Plaintiff shall either show cause
8 why this action should not be dismissed for Plaintiff’s failure to prosecute or a file a motion for
9 entry of default.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Within thirty days from the date of service of this order, Plaintiff shall file a
12 written response to the Court, showing cause why this action should not be
13 dismissed for Plaintiff’s failure to prosecute or a motion for entry of default; and
- 14 2. Plaintiff’s failure to comply with this order shall result in a recommendation that
15 this action be dismissed.

16 IT IS SO ORDERED.

17 Dated: August 10, 2016

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20 UNITED STATES MAGISTRATE JUDGE