

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
6

7 MIKE’S NOVELTIES, INC.,

8 Plaintiff,

9 v.

10 PIV ENTERPRISES, INC.,

11 Defendant.

Case No. 1:23-cv-01309-JLT-SAB

ORDER DENYING REQUEST FOR ENTRY
OF DEFAULT

(ECF No. 26)

12
13 On June 3, 2024, Counter Claim Plaintiff PIV Enterprises, Inc. filed a request for entry of
14 default against Counter Claim Defendant Mikes Novelities, Inc. and Counter Claim Defendant
15 filed an answer to the counter claim. (ECF Nos. 16, 27.)

16 Rule 55(a) of the Federal Rules of Civil Procedure requires that the Clerk of the Court
17 enter default “when a party against whom a judgment for affirmative relief is sought has failed to
18 plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P.
19 55(a). A defendant’s default does not automatically entitle the plaintiff to a court-ordered
20 judgment. See Draper v. Coombs, 792 F.2d 915, 924-925 (9th Cir. 1986). Rather, granting or
21 denying relief is entirely within the Court’s discretion. Id. Inasmuch as Counter Claim
22 Defendant is defending the counter claim by filing an answer, entry of default is not warranted.

23 Accordingly, Cross Claim Plaintiff’s request for entry of default is HEREBY DENIED.

24 IT IS SO ORDERED.

25
26 Dated: June 4, 2024

27 
28 UNITED STATES MAGISTRATE JUDGE