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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRENDA L. VANDYKE,

Plaintiff,

No. CIV.S. 07-1877 FCD GGH PS

vs.

NORTHERN LEASING SYSTEM, INC., et al.,

ORDER

Defendants.

_____ /

Plaintiff is proceeding in this action pro se and in forma pauperis. This proceeding was referred to this court by Local Rule 72-302(c)(21).

Plaintiff's motion for entry of default judgment against defendant Northern Leasing System, Inc., filed December 19, 2008, was heard on this court's February 5, 2009 law and motion calendar. Plaintiff appeared in pro se. Defendant Northern Leasing System, Inc. appeared for the first time in this case through counsel Jonathon Ayers. After hearing oral argument, the court now issues the following order.

Defendant argues that service was defective, and that it was not aware of the notice of entry of default until it was served with the motion for default judgment. Defendant requests that it be relieved of the entry of default. Despite defendant's concession that it was

1 aware of this action much earlier than the date it retained counsel one week ago, the court will
2 permit defendant to file a motion for relief of entry of default.

3 Accordingly, IT IS ORDERED that:

4 1. Plaintiff's motion for default judgment (docket # 22) is vacated without
5 prejudice to its later renewal should defendant's request for relief of entry of default be denied.

6 2. Defendant shall file its motion for relief of entry of default within 10 days of
7 the February 5, 2009 hearing, and notice it for hearing in accordance with the Local Rules.

8 3. Plaintiff shall file an opposition to the motion 14 days prior to the noticed
9 hearing date.

10 4. Defendant may file a reply 7 days prior to the hearing date.

11 DATED: February 10, 2009

13 /s/ Gregory G. Hollows

14 _____
15 GREGORY G. HOLLOWS
16 UNITED STATES MAGISTRATE JUDGE

17 GGH:076/Vandyke1877.rlf.wpd