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

GREGORY SMITH,

Plaintiff,

No. CIV S-10-0762 KJM CKD P

vs.

BEHROZ HAMKAR¹, et al.,

Defendant.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's May 16, 2012 motion for default judgment against defendants Ma, Hamkar, Teachout, and Roberts-Sweeny (erroneously identified in the complaint as Sweeny). (See Dkt. No. 57 at 1, n.1.)

Plaintiff contends that, under Federal Rule of Civil Procedure Rule 12(a)(4), defendants missed their deadline to file a responsive pleading following the district court's March 31, 2012 order, which denied defendants' motion to dismiss as to certain claims against Hamkar, Teachout, and Ma. (Dkt. No. 55.)

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¹ Defendant Nangalama has been dismissed from this action. (Dkt. No. 55.)

1 This argument is meritless. Rule 12(a)(4) provides a deadline to file a responsive
2 pleading “[u]nless the court sets a different time[.]” On April 13, 2012, the court ordered
3 defendants to file an answer to the remaining claims within 14 days of the filed date of that order.
4 (Dkt. No. 56.) Defendants filed their answer on April 25, 2012. (Dkt. No. 57.) Thus the answer
5 is timely and no default judgment is warranted.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. Plaintiff’s May 16, 2012 motion for default judgment (Dkt. No. 59) is denied;
8 and

9 2. The Clerk of Court shall amend the docket to change defendant “Debra
10 Sweeney” to “Debra Roberts-Sweeny” and to note that defendant Nangalama was dismissed
11 from this action on March 31, 2012.

12 Dated: May 23, 2012

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14 _____
15 CAROLYN K. DELANEY
16 UNITED STATES MAGISTRATE JUDGE

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