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

GORDON H. FLATTUM,

Plaintiff,

No. CIV S-11-2711 LKK GGH PS

vs.

STATE OF CALIFORNIA DEPARTMENT  
OF CONSUMER AFFAIRS, et al.,

Defendants.

ORDER

On January 18, 2012, plaintiff filed a Motion for Default Judgment as to both defendants, the “State of California Department of Consumer Affairs” and the California Board of Accountancy. Fed. R. Civ. P. 55(a). Defendants did not file oppositions and have not appeared in the action.

Plaintiff’s request will be denied. It cannot be said that any defendant has failed to defend this action because none have been adequately served with process. Although plaintiff attempted service of process by certified mail with return receipt upon the “Department of Consumer Affairs California Board of Accountancy” and the Attorney General (dkt. no. 5), this method did not conform with the requirements of Cal. Code Civ. Proc. § 416.50. Section 416.50 requires that service of process upon a public entity is completed by “delivering a copy of the summons and complaint to the clerk, secretary, president, presiding officer, or other head of its

1 governing body.” “[P]ublic entity’ includes the state and any office, department, division,  
2 bureau, board, commission, or agency of the state, the Regents of the University of California, a  
3 county, city, district, public authority, public agency, and any other political subdivision or public  
4 corporation in this state.” See generally Fed. R. Civ. P. 4.

5 Accordingly, IT IS ORDERED that:

6 1. Plaintiff’s January 18, 2012 motion for default judgment (dkt. no. 12) is  
7 premature and is denied.

8 2. The Clerk of the Court shall vacate entry of default entered January 9, 2012  
9 (dkt. no. 10).

10 3. Plaintiff shall serve process on both defendants in accordance with Fed. R. Civ.  
11 P. 4 (j)(2) or Cal. Code Civ. Proc. § 416.50 within sixty (60) days of this order. Failure to  
12 properly service process will result in a recommendation that this action be dismissed.

13 DATED: January 26, 2012

14 /s/ Gregory G. Hollows  
15 UNITED STATES MAGISTRATE JUDGE

16 GGH:076  
17 Flattum2711.def.wpd