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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

KARL VUONG, et al.,

Defendants.

No. 2:14-cv-0709 KJM DB

ORDER

On August 17, 2017, plaintiff filed a motion for default judgment and noticed that motion for hearing before the undersigned pursuant to Local Rule 302(c)(19). (ECF No. 73.) Plaintiff's "Application for Default Judgment by Court," states that "[t]he Clerk has previously entered the default on (sic) defendant Karl Vuong on October 2, 2014." (ECF No. 73 at 1.) Moreover, plaintiff's memorandum of points and authorities in support states:

The complaint was filed in federal court on March 18, 2014. The Proof of Service for Karl Vuong was filed on September 8, 2014. The Default of Defendant Karl Vuong was taken on October 2, 2014.

(ECF No. 73-1 at 5.)

On March 26, 2015, however, the assigned District Judge granted defendant Vuong's motion to set aside the clerk's entry of default and defendant Vuong filed an answer. (ECF Nos. 27, 28.) Moreover, plaintiff is now proceeding on an amended complaint and has not sought

1 entry of default with respect to defendant Vuong. (ECF No. 48.)

2 To obtain a default judgment under Rule 55 of Federal Rules of Civil Procedure, a party
3 must follow a sequential two-step process: (1) obtain entry of default from the Clerk of the Court
4 pursuant to Rule 55(a); and (2) move the Court for a default judgment in accordance with Rule
5 55(b). See Eitel v. McCool, 782 F.2d 1470, 1471 (9th Cir. 1986) (discussing this two-step
6 process).

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Plaintiff's August 17, 2017 motion to for default judgment (ECF No. 73) is denied
9 without prejudice to renewal¹; and

10 2. The September 22, 2017 hearing of plaintiff's motion is vacated.

11 DATED: September 20, 2017

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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28 ¹ In this regard, plaintiff may re-notice a motion for default judgment before the undersigned after addressing the issues noted above.