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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD GIDDENS,  
Plaintiff,  
v.  
SUISUN CITY, et al.,  
Defendants.

No. 2:14-cv-0943 TLN AC (PS)

ORDER

Plaintiff is proceeding pro se in this case. The case was accordingly referred to the undersigned by E.D. Cal. R. (“Local Rule”) 302(c)(21).

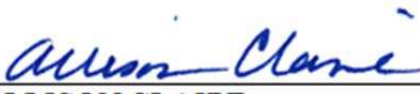
Plaintiff has filed a document entitled “Motion for Default Judgment.” ECF No. 52. The Federal Rules of Civil Procedure provide for the court-ordered entry of a default judgment following the entry of a default by the Clerk of the Court. Fed. R. Civ. P. 55(a), (b)(2); see Eitel v. McCool, 782 F.2d 1470, 1471 (9th Cir. 1986) (distinguishing Clerk’s entry of default under Rule 55(a) from court’s entry of default judgment under Rule 55(b)).

Plaintiff’s motion is defective in several ways. First, it was not noticed for hearing as required by Local Rule 230(b). Second, it was not preceded by the entry of a “default” by the Clerk of the Court pursuant to Fed. R. Civ. P. 55(a). Plaintiff’s submission of his own “Clerk’s Certificate / Notation of Default Judgment,” apparently signed by plaintiff, with the notation “s/s Marianne Matherly / Clerk of Court,” is not a substitute for the entry of a default by the Clerk.

1 See ECF No. 52. Third, the attached Affidavit of Service does not show that defendant was  
2 served with the Second Amended Complaint – filed June 5, 2015 (ECF No. 39) – the operative  
3 complaint in this case. To the contrary, plaintiff avers that on December 26, 2014, he served  
4 defendant with “the within SUMMONS and COMPLAINT.” ECF No. 52-1 at 5. It appears that  
5 this refers to the First Amended Complaint (ECF No. 23), which was dismissed in part on April  
6 24, 2015 (ECF No. 37), and then superseded in its entirety by the Second Amended Complaint.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff’s “Motion for Default Judgment”  
8 (ECF No. 52) is DENIED without prejudice to its renewal in proper form.

9 DATED: May 10, 2016

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11 ALLISON CLAIRE  
12 UNITED STATES MAGISTRATE JUDGE  
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