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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FELIPE ANTONIO,
Plaintiff,
v.
SHAFIQ MUHAREB, et al.,
Defendants.

No. 2:14-cv-1278 GEB CKD

ORDER

Presently before the court is plaintiff's motion for default judgment. This matter was submitted without oral argument.

The record reflects that defendant The Waffle Shop, Inc. acknowledged receipt of summons and the complaint on August 12, 2014. ECF No. 6. The form for the notice and acknowledgment of receipt of summons and complaint was mailed on July 22, 2014. Id. Default was entered on September 18, 2014. Because defendant waived service, under Federal Rule of Civil Procedure 12(a)(1)(A)(ii), defendant had 60 days to serve a responsive pleading. The entry of default on September 18, 2014 was therefore improvidently entered before the expiration of the requisite time period and will be vacated.

The record also reflects that plaintiff served the motion for default judgment on an attorney located in Loomis, California. No attorney has made an appearance for any defendant in

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1 this action. The motion was therefore improperly served. In the event that plaintiff refiles a
2 motion for default judgment, said motion must be properly served on defendant.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The entry of default (ECF No. 11) is vacated.
- 5 2. The motion for default judgment (ECF No. 12) is denied without prejudice.
- 6 3. The Clerk of Court is directed to serve a copy of this order on:

7 Cris Vaughan
8 Vaughan & Associates
9 6207 S. Walnut Street, Suite 800
Loomis, CA 95650

10 The Waffle Shop, Inc.
11 Shafiq Muhareb (Agent for Service of Process)
6262 Calle Montalvo Cir.
Granite Bay, CA 95746-5841

12 Dated: June 17, 2015



13 CAROLYN K. DELANEY
14 UNITED STATES MAGISTRATE JUDGE

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