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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,  
Plaintiff,  
v.  
GARY R. PEREZ, et al.,  
Defendants.

No. 2:16-cv-2554 JAM CKD PS

ORDER

On November 8, 2017, plaintiff filed a notice of defendant Perez’s non-compliance with the court’s October 23, 2017 order, which directed him to pay \$525.00 in Rule 37 sanctions within ten days and stated that failure to comply would result “in defendant’s answer being stricken and default judgment entered.” (ECF No. 35.)

Under Federal Rule of Civil Procedure 37, when a party has failed to obey an order to provide discovery, the court may strike that party’s pleadings or render default judgment against him or her. See Fed. R. Civ. P. 37(b)(2)(A)(iii), (vi). Moreover, “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” See Fed. R. Civ. P. 55(a).

As detailed in the October 23, 2017 order, defendant Perez has repeatedly failed to provide discovery responses and to comply with court orders. Moreover, since filing an answer

1 on April 5, 2017, defendant Perez has not appeared in this action or offered any explanation for  
2 his failures to comply. In light of this record, in its October 23, 2017 order, the court warned  
3 defendant that failure to pay monetary sanctions would result in his answer being stricken and  
4 default entered.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The answer of defendant Gary R. Perez (ECF No. 4) is STRICKEN, pursuant to Fed.  
7 R. Civ. P. 37(b)(2)(A)(iii), based upon his repeated failure to comply with the court's  
8 orders to provide discovery.
- 9 2. The Clerk of Court is directed to ENTER the default of defendant Gary R. Perez  
10 pursuant to Fed. R. Civ. P. 55(a).
- 11 3. Within 21 days of this order, defendant Perez shall PAY \$525.00 to plaintiff for the  
12 reasonable expenses incurred while preparing his September 20, 2017 motion pursuant  
13 to Fed. R. Civ. P. 37(b)(2)(C) as set forth in the October 23, 2017 order; and
- 14 4. Within 28 days of this order, plaintiff shall FILE a motion for default judgement in  
15 accord with Fed. R. Civ. P. 55(b).

16 Dated: November 9, 2017



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18 CAROLYN K. DELANEY  
19 UNITED STATES MAGISTRATE JUDGE

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