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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN BRUCE CLAUER,

Defendants.

No. 2:17-cv-01933 WBS AC (PS)

ORDER

This action is brought by the United States to recover alleged overpayment of veteran's benefits. Defendant, who has not appeared and who is presently incarcerated, is unrepresented by counsel. The action was accordingly referred to the undersigned by Local Rule 302(c)(21). On November 3, 2017, plaintiff filed a motion for default judgment and noticed it for hearing on November 22, 2017. ECF No. 19.¹ Local Rule 230(c) provides that opposition or a statement of non-opposition to a motion is due 14 days prior to the hearing date. Defendant has not responded to plaintiff's motion; however, there is no indication that it was actually served on defendant. Id.

Because defendant was apparently not served with plaintiff's motion for default judgment, he cannot have been expected to respond. Accordingly, the Clerk will be directed to provide defendant with a copy of the motion. The hearing will be vacated, and defendant will be given an

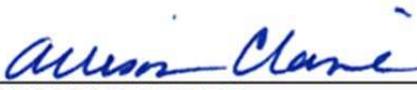
¹ A Prejudgment Writ of Garnishment has already issued, ECF No. 7, and the Clerk entered defendant's default on October 30, 2017, ECF No. 18.

1 opportunity to respond. Defendant is cautioned that this is his final chance to appear and to
2 contest the government's recovery of overpayments.

3 Good cause appearing, IT IS HEREBY ORDERED that:

- 4 1. The hearing currently set for November 22, 2017, is VACATED;
- 5 2. If defendant wishes to oppose plaintiff's motion for default judgment, he shall file
6 a statement of opposition within 21 days of this order;
- 7 3. The motion will be taken under submission upon expiration of defendant's time to
8 respond; and
- 9 4. The Clerk of Court shall serve this order on defendant, together with a courtesy
10 copy of plaintiff's Motion for Default Judgment, ECF No. 19.

11 DATED: November 15, 2017.

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14 ALLISON CLAIRE
15 UNITED STATES MAGISTRATE JUDGE
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