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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KAMLESH BANGA,  
  
Plaintiff,  
  
v.  
  
AMERIPRISE AUTO INSURANCE  
AGENCY, et al.,  
  
Defendants.

No. 2:18-cv-01072 MCE AC PS

ORDER

Plaintiff is proceeding pro se, and the action was accordingly referred to the undersigned by Local Rule 302(c)(21). On October 10, 2018, after receiving leave to amend, plaintiff filed a First Amended Complaint (“FAC”) to add a defendant, IDS Property Casualty Insurance Company, in addition to “Ameriprise Auto & Home Insurance Company.” ECF No. 15. On May 20, 2020, plaintiff filed a notice of errata, stating that she had erred with respect to the Ameriprise defendant’s proper name and inadvertently typed “Company” as opposed to “Agency, Inc.” at page 1, lines 15, 22; page 2, lines 14, 19; and page 3, line 16 of the FAC. ECF No. 38 at 2.

Defendant IDS responded to the First Amended Complaint; Ameriprise Auto & Home Insurance Agency, Inc. did not. ECF No. 13. On August 7, 2020, plaintiff filed a letter brief complaining that Ameriprise Auto & Home Insurance Agency, Inc. was refusing to respond to discovery because it was not properly named in the FAC. ECF No. 41 at 2. Plaintiff noted that

1 Ameriprise Auto & Home Insurance Agency, Inc. had not answered or otherwise responded to  
2 the FAC. ECF No. 41 at 3. On August 14, 2020 the clerk entered default as to Ameriprise Auto  
3 & Home Insurance Agency, Inc. ECF No. 45. Ameriprise moved to set aside entry of default.  
4 ECF No. 46, 48. Plaintiff made a motion for default judgment. ECF No. 51. Ameriprise moved  
5 to extend the briefing schedule on the motion for default judgment. ECF No. 53.

6 On August 26, 2020, Ameriprise Auto & Home Insurance Agency, Inc. filed a response to  
7 plaintiff's letter brief. ECF No. 50. This filing makes clear that Ameriprise Auto & Home  
8 Insurance Agency, Inc. was refusing to participate in this litigation because it was referred to as  
9 Ameriprise Auto & Home Insurance Company in the FAC, and considered plaintiff's notice of  
10 errata ineffective to amend the FAC. ECF No. 50 at 2. The Ameriprise defendant went on to  
11 assert, without any citation to authority, that even if the notice of errata was procedurally proper,  
12 it had no obligation to respond to the FAC because its response to the original complaint would  
13 be sufficient.

14 Upon review of the record, the court finds that the most expeditious and just way to move  
15 this case forward is to order plaintiff to file a Second Amended Complaint, and to order each  
16 defendant to answer or otherwise respond. The court is fully expects that, once properly named,  
17 Ameriprise Auto & Home Insurance Agency, Inc. will participate in discovery in good faith.

18 Based on the foregoing, the court hereby ORDERS as follows:

- 19 1. The motions at ECF No. 46, 48, 51 and 53, each of which address the issue of default,  
20 are STRICKEN as MOOT;
- 21 2. Plaintiff is ORDERED to file a Second Amended Complaint that changes all  
22 references to "Ameriprise Auto & Home Insurance Company" to "Ameriprise Auto &  
23 Home Insurance Agency, Inc." and makes no other changes. The Second Amended  
24 Complaint shall be filed within 14 days of this order;
- 25 3. Defendant Ameriprise Auto & Home Insurance Agency, Inc. and IDS Property  
26 Casualty Insurance Company are each required to answer or otherwise respond to the  
27 second amended complaint within 14 days of its filing pursuant to Fed. R. Civ. P.  
28 (a)(3);

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4. The Clerk of Court is ORDERED to vacate the entry of default at ECF No. 45.

IT IS SO ORDERED.

DATED: September 3, 2020

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE