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3   UNITED STATES DISTRICT COURT
4   NORTHERN DISTRICT OF CALIFORNIA
5   EUREKA DIVISION
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7   SERGEI SARYTCHEV,   Case No.:1:12-cv-02284-NJV

8   Plaintiff,
                                              ORDER DENYING MOTION TO SET
9   v.   **ASIDE ENTRY OF DEFAULT WITHOUT**
                                              PREJUDICE
10 VIXTOR KOROLEV, et al.,

11   Defendants.   Re: Dkt. Nos. 51

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13   Defendants' "Motion To Set Aside Default Judgment" is before this court. *See* Doc. No.

14 51. This case is in federal court. Defendants' motion therefore should be based on Federal Rule

15 of Civil Procedure 55(c), not California Code of Civil Procedure 473(b). Because Defendants fail

16 to address the relevant legal standard or caselaw, their motion is denied. Given the Ninth

17 Circuit's "oft stated commitment to deciding cases on the merits whenever possible" (*United*

18 *States v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir.

19 2010)), the motion is denied without prejudice.

20   Defendants are ordered to familiarize themselves with the Local Rules of the Northern

21 District of California and the Standing Orders of this court. No later than March 5, 2013,

22 Defendants shall file a motion to set aside entry of default. They shall analyze the relevant issues

23 using the appropriate (federal) rules and caselaw and support their analysis with declarations

24 and/or other competent evidence to establish that there is good cause to set aside the default.

25 They also shall comply with the formatting requirements of the Northern District of California.

26 *See* N.D. L.R. 3-4.

27   Plaintiff may file a supplemental opposition and declaration to address any points he did

28 not raise in Doc. No. 54, or may rely on his present opposition.

United States District Court
Northern District of California

1 Defendants may file a reply.

2 The March 5, 2013 hearing is continued until April 2, 2013 for oral argument. The parties

3 may appear telephonically and shall contact the undersigned's courtroom deputy to make those

4 arrangements.

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6 IT IS SO ORDERED.

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8 Dated: February 19, 2013

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10 Nandor J. Vadas
    United States Magistrate Judge

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United States District Court
Northern District of California