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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEGUMI HISAMATSU,
Plaintiff,

v.

KAUSHAL NIROULA; BANK OF HAWAII;
and DOES 1-60,
Defendants.

No. C-07-04371-JSW (EDL)

**ORDER VACATING HEARING ON
MOTION FOR DEFAULT JUDGMENT
AND ALLOWING FILING OF CERTAIN
LIMITED EVIDENCE**

Plaintiff Megumi Hisamatsu filed this action against Defendants Kaushal Niroula and Bank of Hawaii (“BOH”) based on a financial scheme in which Plaintiff was allegedly defrauded of hundreds of thousands of dollars by Defendant Niroula with the cooperation of Defendant BOH. Mr. Niroula was served with the Second Amended Complaint on April 24, 2008 but failed to answer or otherwise respond. Judgment was entered in favor of BOH on March 3, 2009. Default was entered against Mr. Niroula on August 3, 2009, and Ms. Hisamatsu filed the instant Motion for Default Judgment against Mr. Niroula on September 9, 2009. Ms. Hisamatsu’s Motion was referred to this Court by Judge Jeffrey S. White for a Report and Recommendation.

Having reviewed Plaintiff’s Motion For Default Judgment and the record in this case, the Court finds that this matter is suitable for decision based on the record, and hereby vacates the hearing set for October 20, 2009. Federal Rule of Civil Procedure 55(b)(2) authorizes a Court to enter judgment against a defendant against whom a default has been entered, assuming that defendant is not an infant, is not incompetent or in military service. Ms. Hisamatsu has not yet met

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1 this threshold evidentiary burden in that she has not provided a declaration on this point. Ms.
2 Hisamatsu is hereby Ordered to provide evidence of Mr. Niroula's status if she has any within ten
3 days from the date of this Order.
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5 **IT IS SO ORDERED.**

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7 Dated: October 14, 2009

Elizabeth D. Laporte

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ELIZABETH D. LAPORTE
9 United States Magistrate Judge
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