

United States District Court  
For the Northern District of California

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

UNITED STATES OF AMERICA,

Plaintiff,

No. C 10-02310 WHA

v.

CAFFÈ AMICI ESPRESSO LLC,

Defendant.

**ORDER REQUESTING  
PLAINTIFF'S RESPONSE  
TO DEFENDANT'S ANSWER**

On May 26, 2010, plaintiff United States of America filed its complaint for permanent injunction against defendant Caffè Amici Espresso LLC. It sought to enjoin defendant from failing to: (1) withhold federal taxes from employee wages, (2) file timely quarterly federal employment tax returns (Form 941) and annual federal unemployment tax returns (Form 940) with the IRS, (3) timely make federal employment and unemployment tax deposits to a federal depository bank, and (4) timely make federal employment and unemployment payments to the IRS (Compl. ¶ 1). Defendant was served with a copy of the complaint and summons on June 9, and proof of service was filed on July 15 (Newman Decl. ¶¶ 1-2). Plaintiff did not file an answer by the June 30 deadline, and default was entered on July 19 (Dkt. No. 13). On July 21, plaintiff filed motions for default judgment and preliminary injunction. On August 5, defendant finally filed its answer to the complaint (Dkt. No. 17).

Proper procedure would have been to set aside the default and then answer. Given that only three weeks have passed since the entry of default, however, it may be more efficient for the

1 Court to set aside the default, accept the answer, and redesignate the hearing scheduled for  
2 August 26, 2010, as a case management conference. As such, the government is requested to  
3 respond by **THURSDAY (AUGUST 12) AT NOON** as to whether or not the answer moots the pending  
4 motions.

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6 **IT IS SO ORDERED.**

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8 Dated: August 9, 2010.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE