

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

ANDREW JAMES DRISKEL,

No. C 10-5117 SI

Plaintiff,

**ORDER SETTING ASIDE DEFAULT  
AGAINST DEFENDANT JIMMIE  
MIDDLETON; DISMISSING ACTION  
WITHOUT PREJUDICE**

v.

REGINALD KENAN, *et al.*,


Defendants.

On October 28, 2011, the Court issued an Order to Show Cause directing plaintiff to demonstrate that this Court has personal jurisdiction over defendants Middleton, Kuznof and Williams. The Order was mailed to plaintiff's address of record, and the Order was returned to the Court as undeliverable. Plaintiff has not taken any action in this case since filing a pleading on May 10, 2011.

Based upon the record before this Court, it appears that this Court lacks jurisdiction over North Carolina defendants Middleton, Kuznof and Williams. The complaint does not allege that these defendants have any contacts with California, and all of the events giving rise to plaintiff's claims occurred in North Carolina. Because the Court lacks personal jurisdiction over defendant Middleton, the entry of default must be set aside. *See Veeck v. Commodity Enterprises, Inc.*, 487 F.2d 423, 426 (9th Cir. 1973). Accordingly, the Court sets aside the default against defendant Middleton, and DISMISSES this case for lack of jurisdiction and based on plaintiff's failure to prosecute. The dismissal is without prejudice.

**IT IS SO ORDERED.**

Dated: November 15, 2011

  
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SUSAN ILLSTON  
United States District Judge