

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 SERGEI SARYTCHEV,
6

7 Plaintiff,

No. C 12-2284 PJH

8 v.

**ORDER GRANTING MOTIONS TO
STRIKE**

9 VICTOR KOROLEV, et al.,
10

Defendants.
_____ /

11 Plaintiff's motions to strike defendants' answers came on for hearing before this
12 court on October 3, 2012. Plaintiff Sergei Sarytchev ("plaintiff") appeared through his
13 counsel, Steven Barnhill. Defendants Classic-Partner LLC, Dmitri Gorev, and Sergei Liliev
14 ("defendants") did not appear at the hearing. Having read all the papers submitted and
15 carefully considered the relevant legal authority, the court GRANTS the motions for the
16 reasons stated at the hearing and as follows.

17 As of June 18, 2012, each of the defendants in this case had been served with the
18 complaint. None of the defendants filed an answer. On July 12, 2012, plaintiff filed a
19 motion for entry of default as to all defendants. See Dkt. 13. Default was entered as to
20 defendants Classic-Partner and Gorev on July 19, 2012. See Dkt. 14. The next day,
21 defendant Classic-Partner filed an answer to the complaint. On July 23, 2012, default was
22 entered as to defendant Liliev. See Dkt. 16. On August 6, 2012, defendants Gorev and
23 Liliev answered the complaint.

24 Once default has been entered, a defendant's right to appear in the action is cut off.
25 See, e.g., Cohen v. Murphy, 2004 WL 2779942 (N.D. Cal. 2004). Thus, each defendant's
26 answer in this case was improperly filed. Each defendant must first move to set aside the
27 default before proceeding any further in this case. The court also notes that each
28 defendant's answer was filed by an attorney who does not appear to be admitted to

1 practice in this court. For those reasons, the answers filed by defendants Classic-Partner,
2 Gorev, and Lilev are hereby STRICKEN. Each defendant shall have until October 31, 2012
3 to file a motion to set aside default. Under Local Rule 3-9, defendants Gorev and Lilev
4 may appear pro se, and may file their motions without assistance of counsel. However,
5 because Classic-Partner is a business entity, it must appear through counsel. If any
6 defendant does not file a motion to set aside default by October 31, plaintiff may file a
7 motion for default judgment as to that defendant by November 14, 2012.

8 **IT IS SO ORDERED.**

9 Dated: October 3, 2012



PHYLLIS J. HAMILTON
United States District Judge

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