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28E-FILED on 9/3/10

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MISCELLANEOUS FIREARMS,
SILENCERS, and AMMUNITION,

Defendant.

No. C-03-01920 RMW

ORDER GRANTING MOTION TO VACATE
ORDER TENTATIVELY GRANTING
DEFAULT JUDGMENT AND MOTION TO
STAY PROCEEDINGS

[Re Docket Nos. 67, 68]

On August 22, 2009, the court tentatively granted the United States' unopposed motion for default judgment. Although it appeared that service was technically proper, the court had some reservations about whether interested party Kevin Dugan had actual notice. The court held that if a motion to set aside the tentative order was not made within 30 days of the issuance of its order, its tentative order would become a final judgment.

On September 18, 2009, Dugan, acting *pro se*, submitted a motion to vacate the court's August 22, 2009 order. Dugan represented that his counsel of record in this case had led him to

1 believe that this case had been stayed, and that he had not received notice of the motion for default
2 judgment until receiving the court's August 22, 2009 order from his appellate counsel in a related
3 criminal case on September 11, 2009. Dugan also moved for the court to stay this proceeding
4 pending his criminal appeal. The United States has not opposed either motion.

5 The court hereby vacates its August 22, 2009 order tentatively granting the motion for
6 default judgment and stays this proceeding pending the resolution of the related criminal case
7 (*United States v. Dugan*, 03-CR-20010).

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10 DATED: 9/3/10



RONALD M. WHYTE
United States District Judge