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

CURTIS LEE HENDERSON, SR.,	)	No. C 11-4918 RMW (PR)
	)	
Plaintiff,	)	ORDER DIRECTING CLERK TO
	)	ENTER DEFAULT AGAINST
v.	)	DR. SHAMPAIN; DENYING
	)	MOTION FOR DEFAULT
DR. J. ESPINOZA, et al.,	)	JUDGMENT
	)	
Defendants.	)	(Docket Nos. 65, 67)

Plaintiff, a California state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff has requested entry of default against defendant Dr. Shampain. After several attempts at serving Dr. Shampain, on October 10, 2012, the court received an executed summons from Dr. Shampain.

Rule 55(a) of the Federal Rules of Civil Procedure requires that the clerk of the court enter default “when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P. 55(a). Rule 55(b)(2) provides that the court may grant a default judgment after default has been entered by the clerk of the court. Here, Dr. Shampain has neither appeared in this action nor filed anything in this court. Thus, the clerk is directed to enter the default of defendant Dr. Shampain, pursuant to Federal Rule of Civil Procedure 55(a).

Defendant Dr. Shampain is directed to file **within (30) thirty days** of the filing date of

1 this order a motion to set aside the default for good cause in accordance with the court's order of  
2 service to avoid default judgment pursuant to Federal Rule of Civil Procedure 55.<sup>1</sup> **The failure**  
3 **to comply may result in a default judgment being entered against Dr. Shampain.**

4 The clerk shall serve a copy of this court's order of service (doc. no. 13) upon Dr. David  
5 Shampain, 530 Teft Street, Nipomo, CA 93444.

6 This order terminates docket nos. 65 and 67.

7 IT IS SO ORDERED.

8 DATED: 5/13/13

  
RONALD M. WHYTE  
United States District Judge

28 <sup>1</sup> Plaintiff's motion for a default judgment is denied without prejudice as premature.

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

CURTIS LEE HENDERSON SR.,  
Plaintiff,

Case Number: CV11-04918 RMW  
**CERTIFICATE OF SERVICE**

v.

CA DEPT OF CORRECTIONS et al,  
Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 13, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Curtis Lee Henderson H-43488  
Corcoran State Prison  
D1-148  
P.O. Box 5242  
Corcoran, CA 93212

Dated: May 13, 2013

Richard W. Wieking, Clerk  
By: Jackie Lynn Garcia, Deputy Clerk