


1 There are several factors a court may consider in determining whether to enter default
2 judgement, one of which is the "strong policy underlying the Federal Ruled of Civil Procedure
3 favoring decisions on the merits." *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986).
4 Furthermore, this court's discretion to set aside default is broader when only default has
5 been entered and not default judgment. *O'Connor v. State of Nevada*, 27 F.3d 357, 364 (9th
6 Cir. 1994). Bank of America presents a credible case that Thomas's service was improper,
7 and it has now appeared and is ready and willing to litigate. That is all that matters in the
8 Court's view.

9 Thomas's motion for default judgment is **DENIED** and Bank of America's motion to
10 set aside default is **GRANTED**.

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12 **IT IS SO ORDERED.**

13 DATED: October 2, 2013

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15 **HONORABLE LARRY ALAN BURNS**
16 United States District Judge

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