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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ANTON EWING,  
12 Plaintiff,  
13 v.  
14 PATRICK MCCARTHY, a/k/a FLYNN  
15 MCCARTHY; BRYAN DAVID MINEY;  
16 SKY SIREWEST; DOES 1-10; ABC  
17 CORPORATIONS 1-10; and XYZ, LLC's  
18 1-10,  
19 Defendant.

Case No.: 3:17-cv-01554-GPC-RBB

**ORDER REGARDING PLAINTIFF'S  
REQUEST FOR ENTRY OF  
DEFAULT**

[ECF No. 23]

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20 On October 25, 2017, the Court entered an order denying Defendants' motions to  
21 dismiss for lack of personal jurisdiction and improper venue. (ECF No. 22.) Under  
22 Federal Rule of Civil Procedure 12(a)(4), Defendants were required to serve a pleading in  
23 response to Plaintiff's complaint "within 14 days after notice" of the Court's ruling on  
24 their motions to dismiss.

25 On November 13, 2017—19 days after the Court issued its ruling denying the  
26 motions to dismiss—Plaintiff filed a request with the Clerk of Court to issue an entry of  
27 default against the three named defendants in this case because none had filed a timely  
28 responsive pleading. (ECF No. 23.) The Clerk's Office denied this request. (*See id.*)

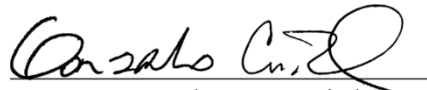
1 The Court notes that Plaintiff's request should have been granted, however, because no  
2 defendant had filed a timely responsive pleading at the time of Plaintiff's request. *See*  
3 Fed. R. Civ. P. 55(a).

4 Yet, in the meantime, Defendants Mincey and McCarthy have filed separate  
5 answers to Plaintiff's complaint. (ECF Nos. 25, 27.) In light of the fact that Mincey and  
6 McCarthy are both appearing *pro se*, the Court finds good cause to excuse the  
7 untimeliness of their responsive pleadings. As a result, while default should have been  
8 entered against Defendants Mincey and McCarthy, the Court concludes that good cause  
9 would have been found to set aside the default against them had it been entered. *See* Fed.  
10 R. Civ. P. 55(c) ("The court may set aside an entry of default for good cause . . ."). The  
11 Court therefore accepts the answers filed by Defendants Mincey and McCarthy, and  
12 orders that default not be entered against them.

13 The third named defendant in this case, Defendant Sirewest, however, has not filed  
14 a responsive pleading. Because, as discussed above, the deadline to file a responsive  
15 pleading has passed, the Court respectfully requests the Clerk of Court to enter default  
16 against Defendant Sirewest under Federal Rule of Civil Procedure 55(a).

17 **IT IS SO ORDERED.**

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19 Dated: December 1, 2017

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21 Hon. Gonzalo P. Curiel  
22 United States District Judge  
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