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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; BRYAN  
15 DAVID MINCEY; and SKY SIREWEST,  
16 Defendants.

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

**ORDER GRANTING MOTION TO  
SET ASIDE DEFAULT**

**[ECF No. 33]**

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18 Before the Court is Defendant Sirewest’s motion to set aside the default entered  
19 against him in this case. (ECF No. 33.) On October 25, 2017, the Court denied  
20 Defendants’ motions to dismiss. (ECF No. 22.) After the Court issued that order,  
21 Defendant Sirewest failed to file an answer to Plaintiff’s complaint within the 14-day  
22 period set forth in Federal Rule of Civil Procedure 12(a)(4). Upon Plaintiff’s request,  
23 default was entered against Defendant Sirewest on December 4, 2017. (ECF No. 30.)

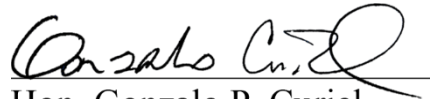
24 “The court may set aside an entry of default for good cause . . .” Fed. R. Civ. P.  
25 55(c). Sirewest indicates in his motion that he failed to file a timely answer because his  
26 wife has been battling brain cancer. According to Sirewest, this suit was filed and served  
27 a month before his wife passed away, and Sirewest has since been “inundated with the  
28 funeral arrangements, consoling his children and 9 grandchildren.” (ECF No. 33 at 3.)

1 Moreover, in that time Sirewest has also fell ill and has been in and out of the hospital.  
2 (*Id.*) Sirewest attaches to his motion an affidavit in which he testifies to these facts, as  
3 well as copies of a funeral program and his wife’s death certificate. He also attaches a  
4 proposed answer to Plaintiff’s complaint.

5 The Court finds that Defendant Sirewest has shown good cause to set aside the  
6 default entered against him. The Court GRANTS the motion to set aside default.  
7 Defendant Sirewest shall file in this Court, within 14 days of this order, an answer to  
8 Plaintiff’s complaint.

9 **IT IS SO ORDERED.**

10 Dated: January 4, 2018

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12 Hon. Gonzalo P. Curiel  
13 United States District Judge  
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