

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

M. EUGENE GIBBS,

Plaintiff,

vs.

CASE NO. 3:11-cv-75-J-34-TEM

UNITED STATES OF AMERICA,  
et al.,

Defendants.

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**ORDER**

This case is before the Court on Plaintiff's Request for Entry of Default (Doc. #72) and the Defendants' Response to Plaintiff's Recent Filings (Doc. #74).

Upon due consideration, the Court has determined the request (Doc. #72) should be denied. Under Rule 55(a), Fed. R. Civ. P., a clerk may enter a default when a party has failed to plead or otherwise defend. In this case, the Defendant has filed a Motion to Dismiss (Doc. #27), which is pending before the Court, so the Defendant has defended the suit. Under Rule 12(a)(4), Fed. R. Civ. P., a party who has moved to dismiss is not required to file an answer or responsive pleading until 14 days after the Court has ruled on the motion to dismiss.

In addition, the Court has stayed discovery and relieved the parties from their obligations to file a Case Management Report until resolution of Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Doc. #57).

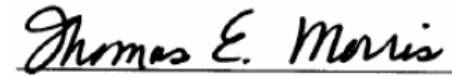
Thus, the Court does not find Defendant in default.<sup>1</sup>

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<sup>1</sup> In addition, before a default judgment may be entered against the United States  
(continued...)

**DONE AND ORDERED** at Jacksonville, Florida this 28<sup>th</sup> day of September, 2011.

Copies to all counsel of record  
and *pro se* parties, if any



**THOMAS E. MORRIS**  
United States Magistrate Judge

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<sup>1</sup>(...continued)  
or its agencies, the claimant would have to establish a claim or right to relief by evidence that satisfies the Court. Fed. R. Civ. P. 55(d).