

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

LONNIE E. LARSON,  
Plaintiff,  
vs.  
DARWIN CHING, Director of the  
Department of Labor, State of  
Hawaii  
Defendant.

) CIVIL NO. 08-00537 SOM-KSC  
)  
) FINDINGS AND RECOMMENDATION TO  
) DENY WITHOUT PREJUDICE: (1)  
) PLAINTIFF'S AMENDED REQUEST TO  
) ENTER DEFAULT JUDGMENT FILED  
) MARCH 4, 2009; (2) PLAINTIFF'S  
) AMENDED DEFAULT JUDGMENT FILED  
) MARCH 16, 2009; AND (3)  
) PLAINTIFF'S MOTION FOR DEFAULT  
) JUDGMENT FILED MARCH 16, 2009  
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FINDINGS AND RECOMMENDATION TO DENY WITHOUT PREJUDICE:

(1) PLAINTIFF'S AMENDED REQUEST TO ENTER DEFAULT JUDGMENT FILED MARCH 4, 2009; (2) PLAINTIFF'S AMENDED DEFAULT JUDGMENT FILED MARCH 16, 2009; AND (3) PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT FILED MARCH 16, 2009

On March 4, 2009, Plaintiff Lonnie Larson filed an Amended Request to Enter Default Judgment. Larson also filed a Motion for Default Judgment and an Amended Default Judgment on March 16, 2009. The Court will address these requests together, as they are substantially similar. The Court finds these matters suitable for disposition without a hearing pursuant to Local Rule 7.2(d). For the reasons discussed below, the Court DENIES these requests.

An entry of default must precede a motion for default judgment. See Brooks v. U.S., 29 F. Supp. 2d 613, 618 (N.D. Cal. 1997) ("The entry of default judgment is a two-part process;

default judgment may be entered only upon the entry of default by the Clerk of the Court."). In Larson's requests, he alleges that the Clerk of the Court entered default against Darwin Ching on February 4, 2009, and February 5, 2009. The record, however, does not reflect an entry of default. Therefore, Larson's requests are premature. Moreover, Ching claims that he timely responded to Larson's Complaint on March 13, 2009.

For the reasons, the Court FINDS and RECOMMENDS that Plaintiff's Motions and Requests be DENIED without prejudice.

IT IS SO FOUND AND RECOMMENDED.

Dated: Honolulu, Hawaii, March 19, 2009.



  
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Kevin S.C. Chang  
United States Magistrate Judge

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