IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

OIRE OREGON C, LLC,

Plaintiff,

v.

MAZIN K. YALDO, M.D., and ALEX PUJARI,

Defendants.

No. CV 08-724-ST

OPINION AND ORDER

MOSMAN, J.,

On September 25, 2008, Magistrate Judge Stewart issued Findings and Recommendation ("F&R") (#20) in the above-captioned case recommending that plaintiff's Motion to Strike (#13) and Motion for Entry of Default Judgment (#15) be GRANTED. However, the F&R further recommended that if either defendant filed a motion to set aside the Default Order (#9) pursuant to Fed. R. Civ. P. 55(c), then entry of default judgment should be deferred pending a ruling on that motion. On October 6, 2008, defendant Yaldo filed a Motion to Set Aside Default Judgment (#22). No objection to the F&R was filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Stewart's recommendation, and ADOPT IN PART and DEFER IN PART the F&R (#20). I ADOPT the F&R as to plaintiff's Motion to Strike (#13) and DEFER as to plaintiff's Motion for Default Judgment (#15).

IT IS SO ORDERED.

Dated this 6th day of January, 2009.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court