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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE JOHNSON,

Plaintiff,

v.

DONALD P. WANG, et al.,

Defendants.

CASE NO. C16-1738JLR

ORDER

I. INTRODUCTION

Before the court is *in personam* Defendant Donald P. Wang’s response to the court’s July 23, 2018, order to show cause. (Resp. (Dkt. # 42).) Mr. Wang is proceeding *pro se*. (See Dkt.) The court has considered Mr. Wang’s response, the relevant portions of the record, and the applicable law. Being fully advised, the court **DECLINES** to enter default and **ORDERS** the parties to file an agreed pretrial order no later than Friday, July 27, 2018, at 12:00 p.m. The matter of sanctions remains pending. (See OSC (Dkt. # 39).)

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II. BACKGROUND

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2 On July 23, 2018, the court held a pretrial conference in this matter, and Mr. Wang
3 did not appear. (*See* 7/23/18 Min. Entry (Dkt. # 38).) Counsel for Plaintiff George
4 Johnson represented that based on their conversations with Mr. Wang, Mr. Wang was
5 aware of the conference and his need to attend. Moreover, the court notified Mr. Wang
6 of the conference date and the potential consequences for failing to appear. (*See* Sched.
7 Order (Dkt. # 23); 7/11/18 Order (Dkt. # 37) (citing Local Rules W.D. Wash. LCR
8 11(c)); Dkt. (6/27/18 entry)); Local Rules W.D. Wash. LCR 11(c) (stating that the court
9 may consider a failure to “appear at [the] pretrial conference . . . an abandonment or
10 failure to prosecute or defend diligently, and judgment may be entered against that
11 party”). In addition, instead of filing an agreed proposed pretrial order as the court’s
12 scheduling order directs, Mr. Wang filed his own proposal a day late. (*See* Sched. Order
13 at 2 (setting July 23, 2018, as the date for the parties’ agreed pretrial order); Def. Pretrial
14 Order (Dkt. # 41) (filed on July 24, 2018).) Because of his failure to appear, the court
15 ordered Mr. Wang to show cause why the court should not enter default against him and
16 issue sanctions of \$2,000.00. (*See* OSC at 2-3.)

17 In addition to failing to appear, Mr. Wang has displayed a habit of blaming
18 others—his former attorney, the opposing party, and the court—for his untimeliness. For
19 example, in moving to set aside default earlier in the case, Mr. Wang contended that he
20 had not timely answered the complaint because of his prior attorney. (Default Resp.
21 (Dkt. # 18) at 2-3.) Mr. Wang now blames opposing counsel for his late-filed proposed

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1 pretrial order. (Def. Pretrial Order at 1 (stating that “counsel for [Mr. Johnson] is
2 unwilling or was unable to incorporate [Mr. Wang’s] latest changes”).)

3 On July 24, 2018, Mr. Wang responded to the order to show cause regarding the
4 issue of default. (*See Resp.*) In addition to reciting the applicable legal standards, Mr.
5 Wang states that his failure to attend was nothing “more than a simple misreading of
6 [court] orders that were changing fairly rapidly.” (*Id.* at 3.) In his declaration, he states
7 that he believed “the court was going to hold the pre-hearing conference after [the
8 parties] submitted the pretrial order,” and that “[a]t the time of the hearing[, he] was
9 putting the final touches [on his] version of the pretrial order.”¹ (Wang Decl. ¶ 1.) He
10 further states that he does “not know why [he] did not read th[e] email” from June 27,
11 2018, which informed him that the court had reset the pretrial conference. (*Id.*; *see also*
12 Dkt. (6/27/18 entry).)

13 As for his tardy pretrial order, Mr. Wang explains that “[w]hen the court moved up
14 the deadline for the prehearing, it did not notify the parties that the deadline for the
15 pretrial order would have to be moved up as well.” (*Resp.* at 4.) However, the court’s
16 scheduling order—issued on May 15, 2017—stated that the agreed pretrial order was due
17 on July 23, 2018—a date that has never changed. (*See Sched. Order* at 2; Dkt.) And Mr.
18 Wang does not explain why he filed a separate pretrial order rather than an agreed order
19 as required. (*See generally Resp.*; Wang Decl.; *Sched. Order* at 2.)
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22 ¹ Mr. Wang’s declaration shows that he signed it in Seattle, Washington on July 24, 2018.
(*See Wang Decl.* (Dkt. # 42-1) at 2.) If Mr. Wang is indeed in Seattle, that is all the more reason
the court should not excuse his failure to attend.

III. ANALYSIS

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2 Even though Mr. Wang is proceeding *pro se*, he is responsible for following the
3 court's orders and all applicable rules. *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987).
4 His failure to read emails informing him of court dates does not divest him of that
5 responsibility. Nevertheless, entry of default is inappropriate at this time. *See* Fed. R.
6 Civ. P. 55(a) (stating that the clerk must enter default when the party against whom relief
7 is sought "has failed to plead or otherwise defend"). Mr. Wang's response and late-filed
8 pretrial order demonstrate that he intends to continue defending. *See id.* But the court
9 once again cautions Mr. Wang that it expects him to comply with all applicable orders
10 and rules. The court further reminds Mr. Wang that his trial brief and proposed findings
11 of fact and conclusions of law are due on Monday, August 6, 2018. (*See* Sched. Order at
12 2.) Because those filings are due only one week before trial—which begins on Monday,
13 August 13, 2018, at 1:00 p.m.—the court will be unable to accept any late filings. (*See*
14 *id.* at 1.) Should Mr. Wang fail to meet those required deadlines, the court will once
15 again consider entering default or judgment against him. *See* Local Rules W.D. Wash.
16 LCR 11(c).

17 Mr. Wang's response to the possible imposition of monetary sanctions is due on
18 Thursday, August 2, 2018, at 12:00 p.m. (*See* OSC at 2.) At that time, the court will
19 consider the appropriate amount of sanctions against Mr. Wang for failing to attend the
20 pretrial conference and to meet court-imposed deadlines.

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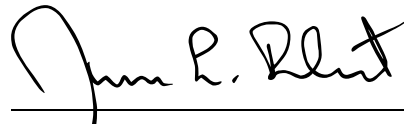
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1 Finally, the court orders the parties to file a single proposed pretrial order no later
2 than Friday, July 27, 2018, at 12:00 p.m. If the parties cannot agree on the items in the
3 order, they should state—in a single proposal—the issues on which they disagree.

4 **IV. CONCLUSION**

5 For the foregoing reasons, the court **DECLINES** to enter default at this time and
6 **ORDERS** the parties to file an agreed proposed pretrial order no later than Friday, July
7 27, 2018, at 12:00 p.m. Mr. Wang's response to the imposition of sanctions is due no
8 later than Thursday, August 2, 2018, at 12:00 p.m.

9 Dated this 25th day of July, 2018.

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12 JAMES L. ROBART
13 United States District Judge
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