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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Allied Waste North America,

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No. CV 07-1596-PHX-MHM

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Plaintiff,

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ORDER

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vs.

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ITS Enterprises, Inc.,

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Defendant.

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On March 25, 2009, the Court granted summary judgment in favor of Plaintiff Allied Waste North America (“Allied”). (Doc. # 45) On May 20, 2009, the Court allowed Allied to file a motion on the issue of damages. (Doc. # 57) Accordingly, on May 29, 2009, Allied filed a Motion for Summary Judgment on Its Damage Claim. (Doc. # 58) In its motion, Allied requests defense costs incurred in defending against the underlying lawsuit in the amount of \$75,943.60 plus interest. Defendant did not file a Response by the June 12, 2009 Court-imposed deadline.

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On June 16, 2009, Allied filed a Request (Motion) for Summary Ruling on Its Motion for Summary Judgment RE: Damages, arguing that because Defendant did not file a response, the Court should summarily grant its summary judgment motion pursuant to Local Rule of Practice LRCiv 7.2(i), Rules of Practice of the United States District Court for the District of Arizona. (Doc. # 60) Pursuant to LRCiv 7.2(i), if a party “does not serve and file

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1 the required answering memoranda . . . such non-compliance may be deemed a consent to
2 the denial or granting of the motion and the Court may dispose of the motion summarily.”
3 Notwithstanding this rule, in accordance with prevailing Ninth Circuit law, the Court has
4 reviewed Allied’s papers and finds them sufficient to support its motion for summary
5 judgment on its damage claim. See Henry v. Gill Industr., Inc., 983 F.2d 943, 949-50 (9th
6 Cir. 1993).

7 Accordingly,

8 **IT IS ORDERED** granting Allied’s Motion for Summary Judgment on Its Damage
9 Claim. (Doc. # 58)

10 **IT IS FURTHER ORDERED** directing the Clerk of the Court to enter judgment
11 against Defendant ITS Enterprises, Inc. in the amount of \$75,943.60 plus interest to accrue
12 at the rate of 10% per annum from the date of judgment until the amount is paid in full.

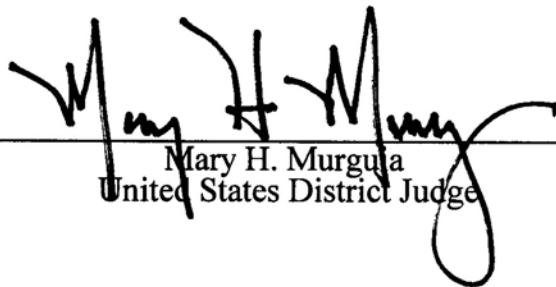
13 In light of the Court’s ruling above,

14 **IT IS FURTHER ORDERED** denying Allied’s Motion for Summary Ruling on Its
15 Motion for Summary Judgment RE: Damages. (Doc. # 60)

16 **IT IS FURTHER ORDERED** granting Allied leave to supplement its fee application
17 to include the fees incurred in briefing its motion for summary judgment on its damage claim.

18 DATED this 22nd day of June, 2009.

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Mary H. Murgula
United States District Judge