

1
2 208 (9th Cir. 1979) (citing Campbell v. United States Dist. Court, 501 F.2d 196 (9th Cir.
3 1974)).

4 By failing to object to a Report and Recommendation, a party waives its right to
5 challenge the Magistrate’s factual findings, but not necessarily the Magistrate’s legal
6 conclusions. Baxter, 923 F.2d at 1394; see also Turner v. Duncan, 158 F.3d 449, 455 (9th
7 Cir. 1998) (failure to object to Magistrate’s legal conclusion “is a factor to be weighed in
8 considering the propriety of finding waiver of an issue on appeal”); Martinez v. Ylst, 951
9 F.2d 1153, 1156 (9th Cir. 1991) (citing McCall v. Andrus, 628 F.2d 1185, 1187 (9th Cir.
10 1980)).

11 **DISCUSSION¹**

12 After conducting a thorough legal and factual analysis, the Magistrate Judge
13 concluded that granting default judgment for Plaintiff is appropriate. (Doc. 26 at 2.)
14 Because the Defendants have not made an appearance in this case, the Court took each of the
15 factual allegations in the Plaintiff’s complaint, except those relating to damages, as true. (Id.)
16 The Magistrate Judge then examined the Eitel factors set forth in Plaintiff’s motion and
17 properly reasoned that default judgment is appropriate. (Id.) The Magistrate Judge also
18 concluded that because Defendants were personally served, their failure to appear in this case
19 is not due to excusable neglect. (Id.)

20 Additionally, the Magistrate Judge recommended that Plaintiff be awarded \$1,000.00
21 for statutory damages, \$624.10 for costs and \$ 4705.00 for reasonable attorney fees. (Id. at
22 3.) The Magistrate Judge found that the costs and attorney fees are well documented and
23 reasonable. (Id.) Furthermore, the Fair Debt Collection Practices Act (“FDCPA”) permits
24 a statutory award of up to \$1,000.00 against each liable debt collector, and representatives
25 acting on behalf of Defendants made numerous calls to Plaintiff that resulted in a violation
26 of the FDCPA. (Id.) Thus, the Magistrate Judge properly concluded that the Plaintiff is

27
28 ¹The factual and procedural history of this case is set forth in the Magistrate
Judge’s Report and Recommendation. (Doc. 26.)

1 entitled to statutory damages of \$1,000.00.

2 Therefore, the Court hereby incorporates and adopts the Magistrate Judge's Report
3 and Recommendation. (Doc. 26.)

4 **CONCLUSION**

5 **IT IS HEREBY ORDERED** that the Court adopts the Report and Recommendation
6 of the Magistrate Judge. (Doc. 26.)

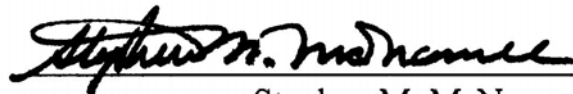
7 **IT IS FURTHER ORDERED** granting Plaintiff's Amended Motion for Default
8 Judgment. (Doc. 25.)

9 **IT IS FURTHER ORDERED** that Plaintiff be awarded costs and attorney fees in
10 the amount of \$5,329.10 against Defendants jointly and severally.

11 **IT IS FURTHER ORDERED** that Plaintiff be awarded statutory damages in the
12 amount of \$1,000.00 against Defendants jointly and severally.

13 **IT IS FURTHER ORDERED** terminating this action.

14 DATED this 18th day of July, 2013.

15
16 

17 Stephen M. McNamee
18 Senior United States District Judge
19
20
21
22
23
24
25
26
27
28