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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Liberty West Regional Center, LLC, an
10 Arizona limited liability company

11 Plaintiff,

12 vs.

13 Salvatore Carpanzano, a/k/a John Salvatore
14 Carpanzano, et al.,

15
16 Defendants.

No. CV 13-02021-PHX-DGC

ORDER

17 Plaintiff Liberty West Regional Center, LLC has filed a motion pursuant to
18 Rule 55(b) of the Federal Rules of Civil Procedure requesting the entry of default
19 judgment against Defendants Salvatore Carpanzano, Marisa Belcastro Carpanzano,
20 (collectively the “Carpanzanos”), and Samba Financial Group Escrow & Consulting
21 Services U.S.A., LLC (“Samba”). The Court will deny the motion without prejudice.

22 Default was entered as to the Carpanzanos and Samba on November 5, 2013.
23 Doc. 21. Once a party’s default has been entered, the district court has discretion to grant
24 default judgment against that party. *See* Fed. R. Civ. P. 55(b)(2); *Aldabe v. Aldabe*, 616
25 F.2d 1089, 1092 (9th Cir. 1980). Factors the court must consider in deciding whether to
26 grant default judgment include (1) the possibility of prejudice to the plaintiff, (2) the
27 merits of the claim, (3) the sufficiency of the complaint, (4) the amount of money at
28 stake, (5) the possibility of a dispute concerning material facts, (6) whether default was

1 due to excusable neglect, and (7) the strong policy favoring a decision on the merits. *See*
2 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). In applying these factors, “the
3 factual allegations of the complaint, except those relating to the amount of damages, will
4 be taken as true.” *Geddes v. United Fin. Group*, 559 F.2d 557, 560 (9th Cir. 1977); *see*
5 Fed. R. Civ. P. 8(d) (“Averments in a pleading to which a responsive pleading is
6 required, other than those as to the amount of damage, are admitted when not denied in
7 the responsive pleading.”). “However, necessary facts not contained in the pleadings,
8 and claims which are legally insufficient, are not established by default.” *Cripps v. Life*
9 *Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992)

10 Plaintiff’s motion does not address the *Eitel* factors. *See* Doc. 28. It is therefore
11 unclear to the Court whether these factors favor the entry of default judgment. The Court
12 will accordingly deny the motion for default judgment without prejudice. Plaintiff shall
13 have until **January 31, 2014** to refile the motion. The new motion shall fully address
14 each *Eitel* factor and also shall include an explanation and evidence sufficient to support
15 any calculation of requested damages. *See Geddes*, 559 F.2d at 560.

16 **IT IS ORDERED** that Plaintiff’s motion for default judgment (Doc. 28) is **denied**
17 without prejudice. Plaintiff shall have until **January 31, 2014** to refile the motion.

18 Dated this 14th day of January, 2014.

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23 David G. Campbell
24 United States District Judge
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