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7 Nareshbhai Patel dba Days Inn and
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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 * * * * *

13 CECIL SHAW,) CASE NO. 1:14-cv-00682-AWI-GSA
14)
15 Plaintiff,)
16 vs.) STIPULATION AND PROPOSED
17) ORDER SETTING ASIDE DEFAULT
18) AS TO DEFENDANTS, NARESHBHAI
19) PATEL dba DAYS INN and
20) KISHORKUMAR P. PATEL
21 NARESHBHAI PATEL dba DAYS INN;)
22 KISHORKUMAR P. PATEL;)
23)
24 Defendants.)
25 _____)

26 WHEREAS:

- 27 1. Plaintiff Cecil Shaw filed this action on May 8, 2014.
- 28 2. Plaintiff filed proofs of service showing service of the summons and complaint in this action on Defendant Kishorkumar P. Patel on May 14, 2014 and on Defendant Nareshbhai Patel dba Days Inn on May 20, 2014. By inadvertence and excusable neglect, caused by the Defendant's misunderstanding of the documents served upon them, no responsive pleading was filed by Defendants and default was entered by the Clerk of this Court on June 25, 2014, after application therefor by Plaintiff. No judgment has been entered.
3. Defendants have now retained counsel to assist with their defense and settlement of this matter. Defendants believe they have a valid defense in this action as set forth in the PROPOSED ANSWER OF NARESHBHAI PATEL dba DAYS INN and KISHORKUMAR P. PATEL TO COMPLAINT which accompanies this Stipulation and Order.

1 4. Plaintiff consents to the setting aside of the default as to all Defendants.

2 5. Setting aside the default will be in the interest of justice in that the parties will be able to
3 resolve the matter to the satisfaction of all parties, and the parties agree that settlement of this case
4 would save valuable court time and resources involved in bringing a motion to set aside the
5 default.

6 NOW THEREFORE, Defendants Nareshbhai Patel dba Days Inn and Kishorkumar P. Patel
7 through their attorneys, and Plaintiff Cecil Shaw, through his attorneys, hereby stipulate and agree
8 that the default entered in this action against Nareshbhai Patel dba Days Inn and Kishorkumar P.
9 Patel shall be vacated and set aside, and that Defendants Nareshbhai Patel dba Days Inn and
10 Kishorkumar P. Patel shall be allowed to answer the Complaint within 10 days from the date of
11 the filing the Order below, pending court approval.

12 IT IS SO STIPULATED.

13 MOORE LAW FIRM, PC
14 Dated: July 15, 2014 /s/Tanya Moore
Tanya Moore, Attorney for Plaintiff Cecil Shaw

15 Dated: July 15, 2014 /s/Bruce A. Neilson
16 Bruce A. Neilson, Attorney for Defendants
17 Nareshbhai Patel dba Days Inn and
Kishorkumar P. Patel

18 **ORDER**

19 The Court adopts the stipulation of the parties set forth above. Accordingly, the default
20 entered by the Clerk of the Court against Defendants Kishorkumar P. Patel and Nareshbhai Patel is
21 hereby VACATED. Defendants shall file a response to Plaintiff Cecil Shaw's complaint within 10
22 days from the date of this Order.

23
24 IT IS SO ORDERED.

25 Dated: July 17, 2014 /s/ Gary S. Austin
26 UNITED STATES MAGISTRATE JUDGE