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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEPRINO FOODS COMPANY,
Plaintiff,
v.
JND THOMAS COMPANY, INC., et al.,
Defendants.

Case No. 1:16-cv-01181-LJO-SAB
ORDER DISCHARGING ORDER TO
SHOW CAUSE AND GRANTING
PLAINTIFF’S REQUEST TO FILE
SUPPLEMENTAL DECLARATIONS AND
EVIDENCE
(ECF Nos. 13, 21)
December 23, 2016 Deadline

Plaintiff filed a motion for default judgment on November 23, 2016. On December 12, 2016, an order issued requiring Plaintiff to show cause why the complaint should not be dismissed for failure to allege diversity jurisdiction. The order additionally addressed areas of the motion for default judgment. On December 16, 2016, Plaintiff filed a first amended complaint. On December 19, 2016, Plaintiff filed a response to the order to show cause and requested additional time to submit a supplemental declaration and evidence to support the motion for default judgment.

Pursuant to Rule 5 of the Federal Rules of Civil Procedure no service of the amended complaint is required on a party who is in default unless it asserts a new claim for relief. Fed. R. Civ. P. 5(a)(2). Plaintiff’s amended complaint does not assert a new claim for relief. Accordingly, the first amended complaint is the operable complaint in this action.

1 Based on the foregoing, IT IS HEREBY ORDERED that:

- 2 1. The order to show cause filed December 12, 2016 is DISCHARGED;
- 3 2. The operable complaint in this action is the first amended complaint fled
- 4 December 16, 2016; and
- 5 3. Plaintiff shall file a supplemental declaration and evidence on or before December
- 6 23, 2016.

7
8 IT IS SO ORDERED.

9 Dated: December 20, 2016


UNITED STATES MAGISTRATE JUDGE