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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

(ECF Nos. 30, 31)

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Plaintiff Leprino Foods Company filed the complaint in this action on August 10, 2016. (ECF No. 1.) After entry of default against Defendants JND Thomas Company, Inc. and Dennis Thomas, Plaintiff filed a motion for entry of default judgment which was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. (ECF Nos. 13-16.) After the magistrate judge issued an order requiring Plaintiff to show cause why this action should not be dismissed due to pleading deficiencies, Plaintiff filed a first amended complaint on December 16, 2016. (ECF No. 19, 20.) Plaintiff filed supplemental pleadings in support of the motion for entry of default judgment on December 22, 2106. On December 29, 2016, an order issued granting Plaintiff the opportunity to file additional supplemental briefing. (ECF No. 28.) On January 6, 2017, Plaintiff filed a supplemental brief. (ECF No. 29.)

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On January 12, 2017, the Magistrate Judge filed findings and recommendations (F&Rs). The F&Rs recommended that default judgment be entered against Defendant JND Thomas Company, Inc., but found that Plaintiff failed to state a claim against Defendant Dennis Thomas. The F&Rs were served on the parties and contained notice that any objections to the findings and recommendations were to be filed within fourteen days (14) days from the date of service. On January 24, 2017, Plaintiff filed a motion to amend the complaint and a memorandum objecting to the recommendation that entry of default judgment be denied as to Defendant Dennis Thomas. (ECF Nos. 31, 32.)

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted
2 a de novo review of this case. Having carefully reviewed the entire file, including the
3 supplemental declaration of Plaintiff's counsel filed on January 30, 2017 (ECF No. 34), which
4 further justifies the hourly rate used to calculate the attorney fee award, the Court adopts the
5 F&Rs as to Defendant JND Thomas Company, Inc., as supported by the record and by proper
6 analysis. The Court holds in abeyance the remainder of the F&Rs as to Defendant Dennis
7 Thomas, pending resolution of the pending motion to amend.

8 Accordingly, IT IS HEREBY ORDERED that:

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- 10 1. The F&Rs, filed January 12, 2017, is ADOPTED IN PART;
 - 11 2. Plaintiff's motion for entry of default judgment against Defendant Dennis Thomas
12 is HELD IN ABEYANCE pending resolution of the pending motion to amend;
 - 13 2. Plaintiff's motion for entry of default judgment against Defendant JND Thomas
14 Company, Inc. is GRANTED as follows:
 - 15 a. Judgment is entered against JND Thomas Company, Inc. for damages in
16 the amount of \$88,844.03, attorney fees in the amount of 21,400.00; and
17 costs in the amount of \$560.75 for a total judgment of \$110,804.78;
 - 18 b. The judgment against Defendant JND Thomas Company, Inc. includes
19 post judgment interest;
 - 20 c. The claim for declaratory relief is GRANTED and Defendant JND
21 Thomas Company, Inc. is responsible for all future costs to remediate or
22 comply with the CAO, including legal and consulting costs; and
 - 23 d. Any further money judgment according to this court's declaration must be
24 enforced by further and separate court action.

IT IS SO ORDERED.

25 Dated: January 31, 2017

/s/ Lawrence J. O'Neill
26 UNITED STATES CHIEF DISTRICT JUDGE