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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 RACHEL BRYANT,) CASE NO. 1:17-cv-01265-LJO-BAM
11 Plaintiff,)
12 vs.) STIPULATION AND ORDER SETTING
13 FRESNO I STEAKHOUSE, L.P. dba) ASIDE DEFAULT AS TO
14 OUTBACK STEAKHOUSE; PEPPERTREE) DEFENDANT PEPPERTREE PLAZA
15 PLAZA 2737, LLC;) 2737, LLC
16 Defendants.)
17 _____)

18 **WHEREAS:**

- 19 1. Plaintiff Rachel Bryant filed this action on 9/21/2017.
- 20 2. Plaintiff filed proofs of service showing service of the summons and complaint in this
21 action on Defendant Peppertree Plaza 2737, LLC on 11/2/2017. By inadvertence and excusable
22 neglect, caused by the Defendant's miscommunication of the date the documents served upon it,
23 no responsive pleading was filed by Defendant and default was entered by the Clerk of this Court
24 on December 1, 2017, after application therefor by Plaintiff. No judgment has been entered.
- 25 3. Defendant has now retained counsel to assist with its defense and settlement of this
26 matter. Defendants believe they have a valid defense in this action as set forth in the
27 **PROPOSED ANSWER OF PEPPERTREE PLAZA 2737, LLC TO COMPLAINT** which
28 accompanies this Stipulation and Order.
4. Plaintiff consents to the setting aside of the default as to Defendant Peppertree Plaza
2737, LLC.
5. Setting aside the default will be in the interest of justice in that the parties will be able

1 to resolve the matter to the satisfaction of all parties, and the parties agree that settlement of this
2 case would save valuable court time and resources involved in bringing a motion to set aside the
3 default.

4 NOW THEREFORE, Defendant Peppertree Plaza 2737, LLC through its attorneys, and
5 Plaintiff Rachel Bryant, through her attorneys, hereby stipulate and agree that the default entered
6 in this action against Peppertree Plaza 2737, LLC shall be vacated and set aside, and that
7 Defendant Peppertree Plaza 2737, LLC shall be allowed to answer the Complaint within 10 days
8 from the date of the filing the Order below, pending court approval.

9 IT IS SO STIPULATED.

10 MISSION LAW FIRM, A.P.C.

11 Dated: December 7, 2017

12 /s/Zachary M. Best
Zachary M. Best, Attorney for Plaintiff Rachel
Bryant

14 Dated: December 7, 2017

15 /s/Bruce A. Neilson
Bruce A. Neilson, Attorney for Defendant
Peppertree Plaza 2737, LLC

16 **ORDER**

17 The Court adopts the stipulation of the parties set forth above. Accordingly, the default
18 entered by the Clerk of the Court against Defendants Peppertree Plaza 2737, LLC is hereby
19 VACATED. Defendants shall file a response to Plaintiff Rachel Bryant's complaint within 10
20 days from the date of this Order.

22 IT IS SO ORDERED.

23 Dated: December 11, 2017

24 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE