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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BOARD OF TRUSTEES OF IBEW
LOCAL UNION NO. 100 PENSION
TRUST FUND, et al.,

Plaintiffs,

v.

INDUSTRIAL ELECTRICAL
SERVICES,

Defendant.

Case No. 1:17-cv-01496-DAD-SAB

ORDER REQUIRING PLAINTIFFS TO EITHER
FILE A MOTION FOR ENTRY OF DEFAULT
JUDGMENT OR SHOW CAUSE WHY THIS
ACTION SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE

THIRTY DAY DEADLINE

Plaintiffs Board of Trustees of IBEW Local Union No. 100 Pension Trust Fund, Joint Electrical Industry Training Trust Fund, National Electric Benefit Funds and Family Medical Care Plan filed this action on November 6, 2017, against Industrial Electrical Services, Inc. (ECF No. 1.) On December 8, 2017, Plaintiff filed a return of service indicating that Industrial Electrical Services had been served on December 4, 2017. (ECF No. 5.) On January 5, 2018, Plaintiffs filed a request for entry of default and default was entered against Defendant Industrial Electrical Services on January 8, 2018. As of this date, no motion for entry of default judgment has been filed.

Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two step process. Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, *2

1 (N.D.Cal. Feb, 11, 2008). Entry of default is appropriate as to any party against whom a
2 judgment for affirmative relief is sought that has failed to plead or otherwise defend as provided
3 by the Federal Rules of Civil Procedure and where that fact is made to appear by affidavit or
4 otherwise. Fed. R. Civ. P. 55(a). After entry of default, the plaintiff can seek entry of default
5 judgment. Fed. R. Civ. P. 55(b)(1) and (2). “Default judgments are generally disfavored, and
6 whenever it is reasonably possible, cases should be decided upon their merits.” In re Hammer,
7 940 F.2d 524, (9th Cir. 1991) (internal punctuation and citations omitted).

8 Having been no activity in in this action since the entry of default, the Court shall order
9 Plaintiffs to either file a motion for entry of default judgment or show cause why this action
10 should not be dismissed for Plaintiffs’ failure to prosecute.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Within thirty (30) days from the date of service of this order, Plaintiff shall either
13 file a motion for entry of default judgment or file a written response showing cause
14 why this action should not be dismissed for Plaintiffs’ failure to prosecute; and
- 15 2. Failure to comply with this order shall result in a recommendation that this action
16 be dismissed for failure to prosecute.

17
18 IT IS SO ORDERED.

19 Dated: March 16, 2018


UNITED STATES MAGISTRATE JUDGE