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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

INNOVATIVE RISK MANAGEMENT,

Plaintiff,

v.

SIKA CORPORATION, et al.,

Defendants.

Case No. 1:20-cv-01507-NONE-SAB

ORDER GRANTING STIPULATED
REQUEST TO CONTINUE SCHEDULING
CONFERENCE AND EXTEND TIME FOR
DEFENDANT SIKA TO FILE ANSWER

(ECF No. 27)

Innovative Risk Management (“Plaintiff”) filed this action against Defendant Sika Corporation (“Sika”) in the Stanislaus County Superior Court on September 21, 2020. (ECF No. 1 at 11-17.) On October 23, 2020, Defendant removed the action to the Eastern District of California. (ECF No. 1.) On November 3, 2020, Defendant Sika filed an answer to the complaint. (ECF No. 2.) On April 22, 2021, Plaintiff filed a first amended complaint against Defendant Sika, and additionally named Defendant HD Supply Construction & Industrial White Cap (“HD”), and Defendant Surebuilt. (ECF No. 16.) On June 30, 2021, Defendant HD filed an answer to the first amended complaint. (ECF No. 20.)

On July 6, 2021, an order issued requiring Plaintiff Innovative Risk Management to file a status report on the service in this matter. (ECF No. 21.) On July 9, 2021, Plaintiff returned proofs of service demonstrating that service has now been effective on all Defendants, and a status report. (ECF Nos. 22, 23, 24.) Plaintiff asserted in the status report that it will be seeking

1 default against Defendant Surebuilt. Plaintiff also stated that it was amenable to proceeding with
2 the scheduling conference with the Defendants that had appeared. On July 12, 2021, the Court
3 ordered Plaintiff to file a request for entry of default against Defendant Surebuilt within seven
4 (7) days. (ECF No. 25.) The Court also stated that “[o]nce default is entered against Defendant
5 Surebuilt, the Court finds it would be appropriate to proceed with the scheduling conference with
6 the parties that have appeared in the action.” (Id. at 1.)

7 On July 16, 2021, Plaintiff and Defendants Sika and HD, filed a stipulation requesting the
8 mandatory scheduling conference be continued for a period of at least 45 days. (ECF No. 27.)
9 The stipulation specifies that while Defendant Sika did file an answer to the original complaint, it
10 has not yet filed an answer to the first amended complaint, and that it will do so by July 30,
11 2021. (ECF No. 27 at 2.) The filing also specifies that Plaintiff will be filing a request for entry
12 of default against Defendant Surebuilt by July 19, 2021. (Id.)

13 Given Defendant Sika has not filed answer to the operative complaint, and the parties’
14 stipulated request, the Court shall continue the scheduling conference to allow the parties to
15 engage in initial discovery disclosures and discuss potential settlement. Given the deadline for
16 Sika to file an answer has already expired, the Court shall construe the stipulation as a request to
17 extend the time for Sika to file an answer nunc pro tunc.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Defendant Sika Corporation shall file an answer by July 30, 2021;
- 20 2. The scheduling conference set for July 29, 2021, is CONTINUED to **September**
21 **30, 2021, at 3:30 p.m.** in Courtroom 9; and
- 22 3. The parties shall file a joint scheduling report **seven (7) days** prior to the
23 scheduling conference.

24 IT IS SO ORDERED.

25 Dated: July 19, 2021

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27 _____
28 UNITED STATES MAGISTRATE JUDGE