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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUANE H. SCEPER,

Plaintiff,

No. 2:09-cv-2878 GEB JFM

vs.

RASHED KAID MOHAMMED,
RASHED KAID MOHAMMED, dba
FARMERS MINI MARKET, FARMER
MINI MARKET AKA FARMERS
MARKET; and DOES 1 THROUGH 10,

ORDER AND AMENDED

Defendants.

FINDINGS AND RECOMMENDATIONS

On January 12, 2010, this court issued findings and recommendations. On January 27, 2010, plaintiff filed a request for clarification. Good cause appearing, the findings and recommendations will be vacated and the court issues amended findings and recommendations.

Upon review of plaintiff's motion for entry of default judgment, the documents in support, and good cause appearing therefor, THE COURT MAKES THE FOLLOWING FINDINGS:

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The complaint in this matter was served upon defendants Mohammed and Farmers Mini Market on October 25, 2009, and proof of service was filed November 15, 2009. Cf. Pacific Atlantic Trading Co. v. M/V Main Express, 758 F.2d 1325, 1331 (9th Cir. 1985) (noting that default judgment void without personal jurisdiction). The Clerk of the Court entered default against both defendants on November 18, 2009. Plaintiff's present motion for entry of default judgment was served by mail on both defendants.

Entry of default effects an admission of all well-pleaded allegations of the complaint by the defaulted party. Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir. 1977). Entry of default judgment is proper where, as in the present case, the facts established by the default support the causes of action pled in the complaint. The complaint and the affidavits filed in support of the motion for entry of default judgment also support the finding that plaintiff is entitled to the relief requested in the prayer for default judgment, which does not differ in kind from the relief requested in the complaint. Henry v. Sneiders, 490 F.2d 315, 317 & n.2 (9th Cir. 1974). There are no policy considerations to preclude the entry of default judgment of the type requested. See Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (enumerating factors to be considered).

Plaintiff has submitted counsel's affidavit regarding costs and attorney's fees. The court finds the amount reasonable.

Accordingly, IT IS HEREBY ORDERED that the court's January 12, 2010 findings and recommendation are vacated.

Furthermore, IT IS HEREBY RECOMMENDED that:

1. Plaintiff's December 11, 2009 motion for entry of default judgment be GRANTED;

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2. Judgment be awarded against defendants Mohammed and Farmers Mini Market in the amount of \$8,000.00, plus \$3,725.00 in attorney's fees and \$477.25 in costs, for a total judgment of \$12,202.25; and

3. Injunctive relief be granted against defendant Mohammed requiring a properly-configured van accessible disabled parking space with an accessible route to an accessible entrance and appropriate signage in conformity with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) as set forth in 28 Code of Federal Regulations, Part 36.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: February 17, 2010.


UNITED STATES MAGISTRATE JUDGE

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