

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

No. 2:10-cv-01043 FCD KJN

v.

ELSA MARINA TORRES,
INDIVIDUALLY
and d/b/a CLUB MACCAO,

Defendants.

ORDER and FINDINGS AND
RECOMMENDATIONS

_____/

Presently before the court is plaintiff's application for default judgment, which is scheduled to be heard on the undersigned's law and motion calendar on November 4, 2010.¹ (Dkt. No. 8.) However, on November 3, 2010, the parties, through their respective counsel, filed a stipulation and proposed order seeking to set aside the entry of default that was entered against defendant on September 7, 2010.² (Dkt. No. 13.) If approved, the parties' stipulation would permit defendant to file an answer to plaintiff's complaint or enter into a stipulated judgment

¹ This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(19) and 28 U.S.C. § 636(b)(1).

² Plaintiff is represented by counsel, Thomas P. Riley, Jr. of the Law Offices of Thomas P. Riley, P.C. The stipulation and proposed counsel was filed and countersigned by defendant's counsel, Ashwani Bhakhri of the Law Offices of Ashwani K. Bhakhri.

1 with plaintiff.

2 In light of the recently filed stipulation and proposed order, IT IS HEREBY
3 ORDERED that the hearing on plaintiff's application for default judgment (Dkt. No. 8), currently
4 set for November 4, 2010, is vacated.

5 IT IS FURTHER RECOMMENDED that:

6 1. The parties' stipulation be approved and that the clerk's entry of default
7 entered against defendant on September 7, 2010 (Dkt. No. 7), be set aside.

8 2. Plaintiff's application for default judgment (Dkt. No. 8) be denied as
9 moot.

10 3. Defendant be permitted to file an answer to plaintiff's complaint or enter a
11 stipulated judgment with plaintiff within a time period to be determined by the United States
12 District Judge assigned to this matter.

13 These findings and recommendations are submitted to the United States District
14 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
15 days after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Id.; see also E. Dist. Local Rule 304(b).
17 Such a document should be captioned "Objections to Magistrate Judge's Findings and
18 Recommendations." Any response to the objections shall be filed with the court and served on
19 all parties within fourteen days after service of the objections. E. Dist. Local Rule 304(d).
20 Failure to file objections within the specified time may waive the right to appeal the District
21 Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d
22 1153, 1156-57 (9th Cir. 1991).

23 DATED: November 3, 2010

24 
25 _____
26 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE