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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

E.B. STONE & SON, INC.,
Plaintiff,
v.
YEAMAN MACHINE TECHNOLOGIES,
INC.,
Defendant.

No. 2:15-cv-1828 GEB CKD

FINDINGS AND RECOMMENDATIONS

Presently before the court is plaintiff's motion for default judgment. This matter was submitted without oral argument. The undersigned has fully considered the briefs and record in this case and, for the reasons stated below, will recommend that plaintiff's motion for default judgment be granted.

In this action, plaintiff seeks damages for breach of contract, fraud and intentional misrepresentation, money due on an open book account, money had and received, and quantum meruit – unjust enrichment. Plaintiff's claims arise out of a contract for the sale, shipment and delivery of product packaging equipment and related products to plaintiff's manufacturing facility located in Solano County, California. The record reflects that defendant was properly served with process on September 9, 2015 and default was entered on November 3, 2015. Plaintiff thereafter

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1 filed an application for default judgment. Plaintiff seeks an entry of default judgment in the
2 amount of \$85,677.03.

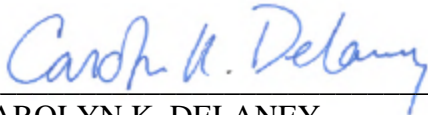
3 Entry of default effects an admission of all well-pleaded allegations of the complaint by
4 the defaulted party. Geddes v. United Financial Group, 559 F.2d 557 (9th Cir. 1977). The court
5 finds the well pleaded allegations of the complaint state a claim for which relief can be granted.
6 Anderson v. Air West, 542 F.2d 1090, 1093 (9th Cir. 1976). The application for default judgment
7 and the exhibits and affidavits attached thereto also support the finding that plaintiff is entitled to
8 the relief in the form of monetary damages requested in the prayer for default judgment, which
9 does not differ in kind from the relief requested in the complaint. Henry v. Sneiders, 490 F.2d
10 315, 317 (9th Cir.), cert. denied, 419 U.S. 832 (1974). The amount sought is supported by the
11 affidavits submitted in support of the motion for default judgment. Plaintiff also requests
12 prejudgment interest, calculated under California law. Such calculation is proper in that plaintiff
13 has alleged state law claims upon which judgment may be entered. See Oak Harbor Freight
14 Lines, Inc. v. Sears Roebuck & Co., 513 F.3d 949, 961 (9th Cir. 2007). Prejudgment interest
15 should therefore be awarded. There are no policy considerations which preclude the entry of
16 default judgment of the type requested. See Eitel v. McCool, 782 F.2d 1470, 1471-1472 (9th Cir.
17 1986) (factors that may be considered by the court are possibility of prejudice to the plaintiff,
18 merits of plaintiff's substantive claim, sufficiency of the complaint, sum of money at stake in the
19 action; possibility of a dispute concerning material facts; whether the default was due to
20 excusable neglect, and strong policy underlying the Federal Rules of Civil Procedure favoring
21 decisions on the merits).

22 For the foregoing reasons, IT IS HEREBY RECOMMENDED that plaintiff's motion for
23 default judgment (ECF No. 12) against defendant be granted in the amount of \$85,677.03.

24 These findings and recommendations are submitted to the United States District Judge
25 assigned to this action, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
26 days after being served with these findings and recommendations, any party may file written
27 objections with the court and serve a copy on all parties. Such a document should be captioned
28 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections

1 shall be served and filed within seven days after service of the objections. The parties
2 are advised that failure to file objections within the specified time may waive the right to appeal
3 the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

4 Dated: December 8, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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