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

United States District Court
Northern District of California

<p>DAVID JOHNSON,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SUNHILL ENTERPRISES, L.P.,</p> <p style="text-align: center;">Defendant.</p> <hr/> <p>SUNHILL ENTERPRISES, L.P.,</p> <p style="text-align: center;">Third-Party Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JOANNA CHAU,</p> <p style="text-align: center;">Third-Party Defendant.</p>

Case No.: C-12-01458 JSC
ORDER RE: DEFAULT

The Court is in receipt of Defendant/Third-Party Plaintiff’s Sunhill Enterprises, L.P.’s (“Sunhill”) Case Management Conference Statement, in which Sunhill requests a prove up hearing to determine damages owing to it from Third-Party Defendant Joanna Chau (“Chau”). (Dkt. No. 37.)

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While the Clerk has entered Chau’s default, (*see* Dkt. No. 35), that is merely the first step in obtaining judgment. Once default is entered, a party must move for entry of judgment by the clerk or the court. Fed. R. Civ. P. 55(b). And Federal Rule of Civil Procedure 55(b)(2) requires that for claims for an indeterminate amount of damages, “the party must apply to the court for a default judgment.” Sunhill, however, has not filed a motion for default judgment with this Court. Thus, its request for a prove up hearing is premature and therefore denied.

The Case Management Conference scheduled for Thursday, October 17, 2013 is VACATED. If Sunhill wishes to proceed against Ms. Chau, it shall file a motion for a default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) within 30 days of the date of this Order. The motion must be accompanied by a proof of service on Ms. Chau.

IT IS SO ORDERED.

Dated: October 11, 2013



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE