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dba ROGERS FAMILY COMPANY

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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10	JBR, INC., a California corporation, doing)	Case No. 3:12-CV-02377-NC
11	business as ROGERS FAMILY COMPANY;)	
12)	
12)	Plaintiff,
13	v.)	EX PARTE MOTION FOR
14)	ADMINISTRATIVE RELIEF TO
14)	CONTINUE THE CASE MANAGEMENT
15)	CONFERENCE AND THE DUE DATE FOR
15	CAFÉ DON PACO, INC.; ALVARO)	THE CMC STATEMENT; ORDER
15	MONTEALGRE, aka ALVARO E.)	THEREON
16	MONTEALEGRE RIVAS; ROBERTO)	
16	BENDAÑA, aka ROBERTO BENDAÑA)	
17	McEWAN,)	Dept: Courtroom A, 15th Floor
17)	San Francisco
18)	Filed: May 10, 2012
18)	Default: July 11, 2013
18)	<u>Hon. N. M. Cousins, presiding</u>

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20 EX PARTE MOTION FOR RELIEF

- 21 1. Pursuant to Civil L.R. 7, Fed. R. Civ. P. 16(d), Plaintiff JBR, INC., a California corporation,
22 doing business as ROGERS FAMILY COMPANY, move this court, *ex parte*, for an order
23 continuing the present Further Case Management Conference scheduled for September 25,
24 2013, at 2:00 p.m. to Wednesday, December 11, 2013.
- 25 2. On July 11, 2013, default was entered against defendants (1) Café Don Paco, Inc., (2) Alvaro
26 Montealgre, aka Alvaro E. Montealegre Rivas, and (3) Roberto Bendaña, aka Roberto
27 Bendaña McEwan. Subsequent to the entry of the default, defendant Bendana initiated
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1 contact with plaintiff and plaintiff's counsel in an effort to reach resolution. As plaintiff
2 understands it, defendant Bendana has offered to come from Nicaragua to meet with plaintiff
3 in California in an effort rebuild the lost standing relationship and reach a financial
4 resolution. Defendant Bendana stated on August 14, 2013, that if a resolution could be
5 achieved he would be able to secure financing to pay the debt owed. In light of the
6 circumstances, plaintiff requests the Further Case Management Conference be continued to
7 provide the parties an opportunity to attempt a resolution. In the event no resolution is
8 achieved plaintiff would file its Motion for Default Judgment no later than October 30, 2013.

9 3. Plaintiff has only heard from defendant Bendana regarding resolution.

10 4. Plaintiff proposes the following schedule:

- 11 a. Plaintiff to file notice of settlement, or, alternatively, Motion for Default Judgment
12 on or before October 30, 2013;
- 13 b. In the event of a Motion for Default Judgment, the Default Judgment would be
14 scheduled for December 4, 2013, i.e., 35 days after filing on October 30, 2013; and
- 15 c. The Further Case Management Conference be scheduled for Wednesday, December
16 11, 2013, and the Further Case Management Statement due on December 4, 2013.

17 5. Plaintiff JBR, INC., a California corporation, doing business as ROGERS FAMILY
18 COMPANY, move this court, *ex parte*, for an order continuing the present Further Case
19 Management Conference scheduled for September 25, 2013, at 2:00 p.m. to Wednesday,
20 December 11, 2013.

21 Executed this 18th day of September, 2013, at San Mateo , California

22 Respectfully submitted,

23 **Law Office of Paul J. Smoot**

24 *Paul J. Smoot*

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ORDER

Good cause appearing, the court grants plaintiff JBR, INC.'s ex parte motion for an order continuing the present Further Case Management Conference scheduled for September 25, 2013, at 2:00 p.m. and makes the following orders:

1. The present Further Case Management Conference scheduled for September 25, 2013, at 2:00 p.m. is continued to Wednesday, December 11, 2013, at 10:00 a.m.;
2. Plaintiff JBR, INC. shall file a notice of settlement, or, alternatively, Motion for Default Judgment on or before October 30, 2013;
3. In the event of a Motion for Default Judgment is filed, the hearing on the Default Judgment shall be scheduled 35 days after filing, but in no event later than December 4, 2013.

Date: September 19, 2013

