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

United States District Court
Northern District of California

LABORERS' INTERNATIONAL
UNION, LOCAL 324, AS THE
SUCCESSOR TO LABORERS'
INTERNATIONAL UNION 291,

Plaintiff,

v.

SIERRA EQUIPMENT RENTALS,
INC.,

Defendant.

Case No.: C-12-03346 JSC

ORDER TO SHOW CAUSE

On November 19, 2012, Plaintiff filed a Motion to Confirm Arbitration Award ("Motion"), seeking to enforce an arbitration award and requesting attorney's fees. (Dkt. No. 19.) A hearing on Plaintiff's Motion is currently scheduled for January 31, 2013. (Dkt. No. 24.) Defendant was served on November 26, 2012 and has yet to appear in this action. (See Dkt. No. 23.) Although Defendant has failed to plead or otherwise defend this action, Plaintiff has not sought entry of default judgment by the Clerk pursuant to Federal Rule of Civil Procedure 55. Rather, Plaintiff simply asks the Court

1 to grant its Motion. This appears contrary to other cases where the Clerk entered default prior to the
2 Court's consideration of a motion to confirm an arbitration award. *See Wells Fargo Advisors, LLC*
3 *v. Braver*, 2012 WL 2990779 (N.D. Cal. July 9, 2012) (Corley, J.); *Cal. Drywall/Lathing Indus.*
4 *Labor-Mgmt. Cooperation, Inc. v. MLR Drywall Servs. Inc.*, 2010 WL 519827 (N.D. Cal. Feb. 4,
5 2010).

6 In light of this concern, the Court hereby orders Plaintiff, **by January 25, 2013**, to show
7 cause in writing as to why the Court should consider Plaintiff's Motion where Defendant has not
8 appeared and the Clerk has not entered Defendant's default.

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10 IT IS SO ORDERED.

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12 Dated: January 22, 2013

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15 JACQUELINE SCOTT CORLEY
16 UNITED STATES MAGISTRATE JUDGE
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