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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERTEC ENVIRONMENTAL SYSTEMS,
Plaintiff,
v.
RIVERVALLEY ECOSERVICES, INC.,
Defendant.

No. C-13-1907 EMC

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND GRANTING
PLAINTIFF’S MOTION FOR DEFAULT
JUDGMENT**

(Docket Nos. 10, 18)

Plaintiff ERTEC Environmental Systems (“ERTEC”) filed the instant action alleging breach of contract and related claims against Defendant River Valley EcoServices, Inc. Specifically, ERTEC alleges that Defendant failed to pay the amounts owed for erosion and sediment control products ERTEC sold to Defendant. (Compl., Dkt. No. 1, ¶ 10, 11, 13). Defendant was personally served with the complaint on May 6, 2013. (Dkt. No. 6). Accordingly, Defendant’s answer or responsive pleading was due on May 28, 2013. Fed. R. Civ. P. 12(a)(1)(A)(i). Defendants did not appear or otherwise respond to the complaint, and on May 31, 2013, the clerk entered default against Defendant. (Dkt. No. 8).

Plaintiff moved for default judgment, and on September 20, 2013, Magistrate Judge Kandis A. Westmore issued a Report and Recommendation (“Report”), recommending that Plaintiff’s motion be granted. (Dkt. No. 18). The time for filing objections has passed, and neither party has objected to the Report. Fed. R. Civ. P. 72(b)(2).

As an initial matter, the Court must determine whether it has subject matter jurisdiction over the action. See *J&J Sports Prods., Inc. v. Basto*, No. C 10-5122 PJH, 2011 WL 2197756, at *2


1 (N.D. Cal. June 6, 2011). On October 1, 2013, the Court issued an order to show cause why this
2 case should not be dismissed for lack of subject matter jurisdiction as the complaint did not contain
3 sufficient allegations for the Court to determine whether diversity jurisdiction existed. (Dkt. No.
4 21). Specifically, the Court noted that the complaint failed to properly allege the citizenship of
5 Plaintiff – a limited liability company – and thus it was not clear if there was complete diversity (*Id.*
6 at 2). On October 3, 2013, Plaintiff filed a declaration from Vince Morris, its President and Chief
7 Executive Officer. (Dkt. No. 22). This declaration avers that each member of the LLC is a citizen
8 of either California or Pennsylvania. *See Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d
9 894, 899 (9th Cir. 2006) (“We . . . hold that, like a partnership, an LLC is a citizen of every state of
10 which its owners/members are citizens.”). Thus, as Defendant is a corporation alleged to have its
11 principal place of business in Texas, complete diversity is satisfied and jurisdiction is proper. *See*
12 *Davis v. HSBC Bank Nevada, N.A.*, 557 F.3d 1026, 1028 (9th Cir. 2009).

13 Having review the Report, as well as the record in this case, the Court finds that the Report is
14 well-founded in fact and in law and therefore adopts it in full. Plaintiff’s Motion for Default
15 Judgment is therefore **GRANTED**. The Clerk shall enter judgment in favor of Plaintiff in the
16 amount of \$68,191.19, plus interest in the amount of 1.5% per month going forward.

17 This order disposes of Docket Nos. 10 and 18.

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19 IT IS SO ORDERED.

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21 Dated: October 17, 2013

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24 EDWARD M. CHEN
25 United States District Judge
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