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5 **UNITED STATES DISTRICT COURT**  
6 **NORTHERN DISTRICT OF CALIFORNIA**

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8 MARTIN ARNAUDOV, and others,

9 Plaintiffs,

10 v.

11 CALIFORNIA DELTA MECHANICAL,  
INC., TODOR KITCHUKOV, and others,

12 Defendants.

Case No. 13-cv-02306 NC

**ORDER REQUESTING FURTHER  
BRIEFING ON PLAINTIFFS'  
MOTION TO ENFORCE  
SETTLEMENT AGREEMENT  
AGAINST TODOR KITCHUKOV**

Re: Dkt. No. 178

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14 Presented to the Court is plaintiffs' motion to enforce their settlement agreement  
15 against individual defendant Todor Kitchukov. Dkt. No. 178. Plaintiffs seek a judgment  
16 against Kitchukov under Federal Rule of Civil Procedure 54(b), which permits entry of final  
17 judgment as to one or more parties in a multi-party case "only if the court determines that  
18 there is no just reason for delay." Because plaintiffs' motion is unclear as to the amount  
19 and justification for the requested judgment, the Court requests additional information.

20 **I. Procedural History**

21 The settlement agreement (Dkt. No. 158-2) was approved by this Court on September  
22 28, 2015. Dkt. No. 176. After the Court approved the settlement, corporate defendants  
23 Delta Mechanical, Inc., California Delta Mechanical, Inc., and Nevada Delta Mechanical,  
24 Inc. gave notice that they had filed bankruptcy petitions. Dkt. No. 177. The automatic  
25 bankruptcy stay does not extend to non-bankrupt defendant Kitchukov. *Boucher v. Shaw*,  
26 572 F.3d 1087, 1093-94 (9th Cir. 2009).

27 The Court has subject matter jurisdiction to enforce the settlement agreement because  
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1 it expressly retained jurisdiction at the time it approved the settlement. Dkt. No. 176; *see*  
2 *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375 (1994). In addition, all  
3 parties have consented to the jurisdiction of a magistrate judge under 28 U.S.C. § 636. Dkt.  
4 Nos. 13, 17, 57. Kitchukov has not responded to the motion to enforce. *See* Dkt. No. 182  
5 (notice setting Nov. 30 deadline to respond).

6 Under the terms of the settlement agreement, defendants Delta Mechanical, Inc. and  
7 Kitchukov are “individually and jointly and severally liable for all payments obligations set  
8 forth” in the Agreement. Settlement ¶ 1(f), Dkt. No. 158-2. Furthermore, judgment may be  
9 rendered against “any or all of the Defendants (except Nevada Delta Mechanical, Inc.) in  
10 the event of a default.” *Id.* And, specifically, plaintiffs are entitled to seek “immediate  
11 judgment” against Kitchukov and DMI in the “full amount” of all unpaid sums if a default  
12 is not cured. Settlement ¶ 1(h).

## 13 **II. Request for Additional Information**

14 Plaintiffs’ motion for enforcement seeks a judgment against Kitchukov, but the  
15 amount is not clear. The proposed order says \$1,567,261.81. Dkt. No. 181. Page 14 of the  
16 plaintiffs’ brief says \$1,583,289.26. Dkt. No. 178. Page 15 of the same brief says  
17 \$1,583,289.6. *Id.* So, first, plaintiffs must clarify the amount they seek.

18 Second, plaintiffs must explain the calculation and evidence that supports their  
19 requests for \$391,815.44 in liquidated damages and \$15,997.50 in “additional attorneys’  
20 fees.” Dkt. No. 178 at 14. (Again, plaintiffs’ proposed order uses a different number for  
21 the liquidated damages: \$391,815.49). The Court acknowledges that the settlement  
22 agreement ¶ 2(h) contains a liquidated damages provision in the event of default, but does  
23 not understand how plaintiffs have made their calculation.

24 Plaintiffs must provide the requested information by December 15.

25 IT IS SO ORDERED.

26 Date: December 8, 2015

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28 Nathanael M. Cousins  
United States Magistrate Judge