

United States District Court
For the Northern District of California

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

DREYER'S GRAND ICE CREAM, INC., a
Delaware corporation, and
EDY'S GRAND ICE CREAM, a California
corporation,

No. C 07-00140 CW

Petitioners,

ORDER ENTERING
DEFAULT AND
COMPELLING
ARBITRATION

v.

ICE CREAM DISTRIBUTORS OF EVANSVILLE,
LLC,

Respondent.

_____ /

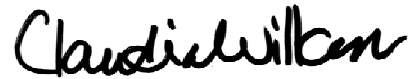
On November 4, 2008, the Court issued an Order Granting
Withdrawal of Counsel for Plaintiff, wherein the Court set a case
management conference for December 2, 2008, and by that date Ice
Cream Distributors of Evansville ("ICD") was to be represented by
counsel or case no. 07-05060 would be dismissed. The case
management conference was held on December 2, 2008, and ICD was not
represented by counsel. Accordingly, the Court dismissed the case.

In addition, because ICD did not appear in the above-mentioned
case through counsel, as ordered, on December 2 and a corporation
cannot appear through a non-lawyer, United States v. High Country
Broad. Co., 3 F.3d 1244, 1245 (9th Cir. 1993), ICD is in default in
this case. The Court directs the clerk to enter default against

1 ICD in case no. 07-00140. All of the facts plead in the petition
2 are therefore taken as true except any relating to damages. Geddes
3 v. United Fin. Group, 559 F.2d 557, 560 (9th Cir. 1977). All facts
4 previously considered disputed in the order on the motion to compel
5 arbitration are resolved in favor of Dreyer's Grand Ice Cream, Inc.
6 and Edy's Grand Ice Cream. Therefore, the Court compels the
7 parties to arbitrate their dispute within ninety days of this
8 Order. The Court retains jurisdiction to enforce the arbitration
9 award. A case management conference will be heard on April 14,
10 2009 at 2:00 p.m.

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12 IT IS SO ORDERED.

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14 Dated: 12/12/08



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CLAUDIA WILKEN
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 DREYER'S GRAND ICE CREAM, INC. et al,

Case Number: CV07-00140 CW

5 Plaintiff,

CERTIFICATE OF SERVICE

6 v.

7 ICE CREAM DISTRIBUTORS OF
8 EVANSVILLE et al,

9 Defendant.
10 _____/

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
12 Northern District of California.

13 That on December 12, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
16 in the Clerk's office.

17 Mr. David W. Garrett - President
18 Ice Cream Distributors of Evansville, Inc.
19 10430 Driver Drive
20 Evansville, Indiana 47725

21 Dated: December 12, 2008

22 Richard W. Wiekling, Clerk
23 By: Sheilah Cahill, Deputy Clerk
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