

United States District Court
Northern District of California

THE BOARD OF TRUSTEES, in their capacities as Trustees of the LABORERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA, et al.,

Plaintiffs,

v.

UNITED FENCE CONTRACTORS, INC., a California corporation, individually and doing business as THOMPSON & THOMPSON FENCE CO.

Defendant.

Case No.: 12-cv-06323 (KAW)

ORDER VACATING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT; AND SETTING ASIDE THE CLERK'S ENTRY OF DEFAULT

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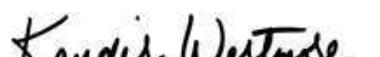
On June 17, 2013, Plaintiffs filed their motion for default judgment against Defendant United Fence Contractors, Inc. (doing business as Thompson & Thompson Fence Co.), pursuant to section 502 of the Employee Retirement Income Security Act and section 301 of the Labor Management Relations Act. (Dkt. No. 13.) Plaintiffs' motion follows an entry of default by the clerk on March 15, 2013. (Dkt. No. 12.) Defendant has not appeared in this action, nor did it respond to Plaintiffs' complaint or motion for default judgment.

At the hearing, Plaintiffs asked the Court to vacate the motion based on insufficient service of process, which was not apparent from the certificate of service filed with the Court.

In light of Plaintiffs' request, the motion for default judgment is VACATED. Further, since Plaintiffs attest that service of the complaint was insufficient, the entry of default entered by the clerk on March 15, 2013 is set aside, and Plaintiffs must have the clerk again enter default after having properly effected service before filing a subsequent motion for default judgment.

IT IS SO ORDERED.

Dated: August 1, 2013



KANDIS A. WESTMORE
United States Magistrate Judge