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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GUIFU LI, MENG WANG, FANG DAI, LIN)
CUI, and ZHONG YU, on behalf of themselves)
and all others similarly situated,)
)
Plaintiffs,)
v.)
)
A PERFECT DAY FRANCHISE, INC., a)
California Corporation, et al.,)
)
Defendants.)

Case No.: 10-CV-01189-LHK

ORDER REGARDING PROOF OF SERVICE

As a procedural prerequisite to granting default judgment, plaintiffs must first establish that the defendants were served with written notice of the application at least 7 days before the hearing on the default judgment. *See* Fed. R. Civ. P. 55(b)(2) (“If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing.”). Failure to satisfy Rule 55(b)(2)’s notice requirement is a serious procedural error usually justifying reversal on appeal or the setting aside of a default. *In re Roxford Foods, Inc.*, 12 F.3d 875, 879 (9th Cir. 1993).

1 Defendants Huan Zou and Tailiang Li became ECF filers before the motion for default
2 judgment was filed by Plaintiffs on May 9, 2012. Zou and Tailiang Li therefore received notice of
3 the default judgment motion more than two weeks in advance of the hearing, thus meeting the
4 requirements of Rule 55(b)(2). Additionally, as Zou and Tailiang Li are the sole owners of Perfect
5 Day and Minjian, respectively, it is reasonable to conclude that Perfect Day and Minjian also
6 received notice of Plaintiffs' application for default judgment.

7 Plaintiffs, however, have failed to file a proof of service of the motion for default judgment
8 as to defendants Jun Ma or Jin Qiu. By 5:00 p.m., Wednesday May 23, 2012, Plaintiffs shall either
9 file a proof of service establishing that Mr. Ma and Ms. Qiu were served in compliance with Rule
10 55(b)(2), or, if service has not yet been effected on these defendants, file a statement indicating
11 how they intend to proceed in light of this deficiency.

12 **IT IS SO ORDERED.**

13 Dated: May 22, 2012

14 
15 LUCY H. KOH
16 United States District Judge