

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SONDRA J. ALLPHIN, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PETER K FITNESS, LLC; PETER T. )  
KOFITSAS; FULCO FULFILLMENT, INC.; )  
and DOES 1-50, inclusive, )  
 )  
Defendants. )

Case No.: 13-CV-01338-LHK  
ORDER GRANTING REQUEST TO  
VACATE ENTRY OF DEFAULT AND  
REQUESTING CLARIFICATION

\_\_\_\_\_)  
PETER K. FITNESS, LLC, a New Jersey )  
Limited Liability Company, )  
 )  
Third-Party Plaintiff, )  
 )  
v. )  
 )  
IDEAL JACOBS CORPORATION, IDEAL )  
JACOBS (XIAMEN) CORPORATION, )  
ANDREW CONRAD JACOBS, XIAMEN )  
IDEAL JACOBS INTERNATIONAL )  
LIMITED, IDEAL JACOBS XIAMEN )  
CORPORATION, IDEAL JACOBS )  
MALAYSIA CORPORATION )  
 )  
Third-Party Defendants. )  
\_\_\_\_\_)

1 On March 25, 2013, Third-Party Plaintiff Peter K. Fitness, Inc. (“Peter K. Fitness”) filed a  
2 Third-Party Complaint, naming as Defendants Ideal Jacobs Corporation, and Ideal Jacobs  
3 (Xiamen) Corporation (“Ideal Jacobs (Xiamen)”). ECF No. 4.

4 On May 28, 2013, Peter K. Fitness filed a request for entry of default against Ideal Jacobs  
5 (Xiamen). ECF No. 24. Default was entered as to Ideal Jacobs (Xiamen) on May 29, 2013. ECF  
6 No. 25.

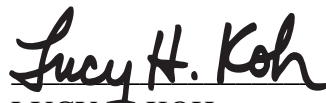
7 On June 5, 2013, the parties filed a stipulation to file an Amended Third-Party Complaint,  
8 naming the original two Defendants and several others, as reflected in the caption of this action.  
9 ECF No. 27. The Court granted the stipulation on June 7, 2013. ECF No. 31. Third-Party  
10 Defendant Andrew Conrad Jacobs filed an Answer to the Amended Third-Party Complaint on June  
11 27, 2013, alleging in relevant part that Ideal Jacobs (Xiamen) was dissolved on or about July 26,  
12 2011. ECF No. 36, at 2.

13 On July 1, 2013, Peter K. Fitness filed a request to vacate the May 29, 2013 Default entered  
14 against Ideal Jacobs (Xiamen), and to dismiss Ideal Jacobs (Xiamen), “a dissolved New Jersey  
15 Corporation,” from this action without prejudice. ECF No. 37. Accordingly, the Court VACATES  
16 the May 29, 2013 Default entered against Ideal Jacobs (Xiamen).

17 However, on July 2, 2013, Peter K. Fitness filed a new Amended Third Party-Complaint,  
18 again naming Ideal Jacobs (Xiamen) as a Defendant. ECF No. 38. The Court requests clarification  
19 from Peter K. Fitness as to whether the July 2, 2013 filing constitutes a Second Amended  
20 Complaint, and whether Peter K. Fitness continues to seek the dismissal without prejudice of Ideal  
21 Jacobs (Xiamen).

22 **IT IS SO ORDERED.**

23  
24 Dated: July 8, 2013

  
LUCY H. KOH  
United States District Judge