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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
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10 GINA CHAMPION-CAIN, an individual;
11 LUV SURF, LP, a California limited
12 partnership; ANI COMMERCIAL CA I,
13 LLC, a California limited liability
14 company; and ANI COMMERCIAL CA
15 II, LP, a California limited partnership,

Plaintiffs,

v.

16 BRIAN MACDONALD, an individual;
17 LOVESURF, INC., a Delaware
18 corporation; and DOES 1-10, inclusive,

Defendants.

Case No.: 3:14-cv-02540-GPC-BLM

ORDER:

(1) GRANTING MOTION TO STRIKE ANSWER AND DISMISS COUNTERCLAIM OF DEFENDANT LOVESURF, INC. (ECF No. 132);

(2) DIRECTING CLERK OF THE COURT TO ENTER DEFAULT AS TO DEFENDANT LOVESURF, INC.;

(3) DENYING AS MOOT PLAINTIFFS' EX PARTE MOTION TO ALLOW WITNESS TO TESTIFY TELEPHONICALLY AT TRIAL (ECF No. 145) AND MOTION TO EXCLUDE EVIDENCE OF DAMAGES INCURRED BY DEFENDANTS (ECF No. 109)

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25 **I. Motion to Strike Answer and Dismiss Counterclaim of Defendant**
26 **Lovesurf, Inc. (Dkt. No. 132)**

27 On January 17, 2017, Plaintiffs and Counter-Defendants Gina Champion-Cain,
28 Luv Surf, L.P., ANI Commercial CA I, LLC, and ANI Commercial CA II, L.P.'s

1 (collectively, “Plaintiffs”) filed a motion to strike the answer of Defendant Lovesurf, Inc.,
2 strike the counterclaim of Defendant Lovesurf, Inc., and enter default as to Defendant
3 Lovesurf, Inc. on the grounds that Lovesurf, Inc. cannot proceed in the instant litigation
4 without counsel. (Dkt. No. 132.)

5 The Court conducted a hearing on the matter on February 17, 2017. (Dkt. No.
6 148.) Geoffrey Thorne, Esq. appeared on behalf of Plaintiffs. (*Id.*) Brian MacDonald
7 appeared *in propria persona*. (*Id.*)

8 Mr. MacDonald represented to the Court at the hearing that Lovesurf, Inc. is not
9 represented by counsel, and that he intends to proceed *pro se* in the instant action. As a
10 corporation, Lovesurf, Inc. may not appear in this Court unrepresented. *See* CivLR 83.3
11 (“All other parties, including corporations, partnerships and other legal entities, may
12 appear in court only through an attorney permitted to practice pursuant to Civil Local
13 Rule 83.3.”). Accordingly, the Court **GRANTS** Plaintiffs’ motion to strike Defendant
14 Lovesurf, Inc.’s answer and dismiss Defendant Lovesurf, Inc.’s counterclaim.

15 **II. Entry of Default**

16 In accordance with the above, and pursuant to Federal Rule of Civil Procedure
17 55(a), the Court **DIRECTS** the Clerk of the Court to enter default as to Defendant
18 Lovesurf, Inc.

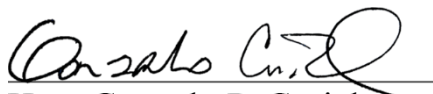
19 **III. Plaintiffs’ *Ex Parte* Application To Allow Witness Carol Haggerty to**
20 **Testify Telephonically At Trial (Dkt. No. 145) and Motion *in Limine* to**
21 **Exclude Evidence of Damages Incurred by Defendants (Dkt. No. 109)**

22 In light of the fact that the jury trial set for February 21, 2017 has been vacated,
23 (Dkt. No. 148), the Court accordingly **DENIES AS MOOT** Plaintiffs’ *ex parte*
24 application to allow Ms. Haggerty to testify telephonically at trial (Dkt. No. 145) and
25 motion *in limine* to exclude evidence of damages incurred by Defendants (Dkt. No. 109).

26 **IT IS SO ORDERED.**

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1 Dated: February 17, 2017


2 Hon. Gonzalo P. Curiel
3 United States District Judge

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6 cc:

7 Brian MacDonald

8 32158 Camino Capistrano #104-501

9 San Juan Capistrano, CA 92675-3720

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