

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COBBLER NEVADA, LLC,

Plaintiff,

V.

KEVIN JAMES,

Defendant.

C15-1430 TSZ

ORDER

THIS MATTER comes before the Court on Plaintiff Cobbler Nevada LLC's Motion for Sanctions, Entry of Default and Leave to Move for Default Judgment, docket no. 68. For the reasons discussed herein, the Court GRANTS plaintiff's motion in part and ORDERS the entry of default against Defendant Kevin James.

On September 20, 2016, plaintiff filed a Motion to Compel Discovery, docket no. 56, to which Mr. James failed to respond. In granting plaintiff's motion, the Court advised Mr. James that failure to "obey this Minute Order may result in sanctions against him, including entry of default judgment." *Id.* On December 9, 2016, plaintiff moved for default judgment as a sanction for Mr. James's failure to respond to discovery requests,

1 which the Court denied, noting that “the Court declines to enter default judgment as a
2 sanction at this time.” Minute Order, docket no. 63.

3 Plaintiff thereafter moved for an Order to Show Cause, docket no. 64, which the
4 Court granted on March 24, 2017. Minute Order, docket no. 65. The Court ordered
5 Mr. James to show cause why he should not be required to pay reasonable expenses
6 incurred as a result of his failure to respond to discovery and advised him that “continued
7 failure to participate in this action may result in a sanction of default, allowing plaintiff to
8 proceed with a motion for default judgment.” *Id.* Mr. James filed a response to the Order
9 to Show Cause on March 31, 2017, consisting of a general denial of plaintiff’s
10 infringement allegations, but provided no explanation for his failure to respond to the
11 discovery requests despite multiple Court Orders requiring him to do so. Response to
12 Order to Show Cause, docket no. 67.

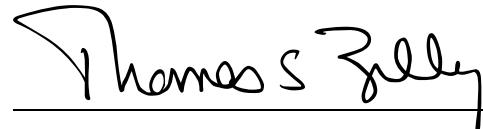
13 Given Mr. James’s continued refusal to respond to discovery or even participate in
14 a Rule 37 conference on the issue, on April 22, 2017, plaintiff filed the instant motion
15 requesting the imposition of sanctions, entry of default, and an award of attorney’s fees,
16 docket no. 78. Mr. James filed no response. The Court renoted plaintiff’s motion to
17 provide additional time to respond and advised Mr. James that he could request counsel
18 for the limited purpose of participating in early alternative dispute resolution under Local
19 Civil Rule 39.1. Minute Order, docket no. 70. The Court further advised Mr. James that
20 if he failed to respond, the Court would rule on plaintiff’s motion for sanctions, which
21 Mr. James had failed to oppose. *Id.* To date, the Court has received no response from
22 Mr. James.

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1 In light Mr. James's failure to respond to discovery or otherwise participate in this
2 action despite multiple Court Orders, the Court DIRECTS the Clerk of the Court to
3 ENTER default against Mr. James. The Court finds that entry of default against
4 Mr. James is the appropriate sanction for his repeated failures to respond. Plaintiff's
5 request for attorney's fees and costs will be considered by the Court when plaintiff files
6 its motion for default judgment.

7 IT IS SO ORDERED.

8 Dated this 14th day of August, 2017.



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10 Thomas S. Zilly
11 United States District Judge
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