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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Caisse de Retraite du Personnel Navigant,

Case No. 2:22-cv-01002-JHC

Plaintiff,

v.

ORDER RE: DEFAULT JUDGMENT

Pierre M. Renou AKA Pierre Ruckelshausen,

Defendant.

**I.**

**INTRODUCTION**

This matter comes before the Court on “Plaintiff’s Request for Court Entry of Default Judgment Against Defendant Pierre M. Renou aka Pierre Ruckleshausen.” Dkt. # 7. The motion is unopposed. *See generally* Dkt. The Court has considered the motion, the record, and the applicable law. Being fully advised, the Court GRANTS the motion in part and DENIES it in part.

**II.****BACKGROUND**

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3 Plaintiff is a French pension fund. Dkt. # 1. Jacqueline Ruckelshausen received a  
4 supplementary pension benefit from Plaintiff. *Id.* Ms. Ruckelshausen passed away on March  
5 2, 2008, and pension payments were then to cease. *Id.* But Plaintiff was unaware of her death  
6 and continued to distribute payments through February 28, 2021. *Id.* According to Plaintiff,  
7 overpayment amounted to \$429,320.86. *Id.*

8 Defendant is the surviving son of Ms. Ruckelshausen. *Id.* While she was alive, he  
9 assisted with the administration of the pension. *Id.* Later, rather than notifying Plaintiff of his  
10 mother's passing, he fraudulently completed and submitted certain documents, causing the fund  
11 to continue to pay the benefits. *Id.* Plaintiff eventually discovered the ruse. *Id.* It demanded a  
12 refund from Defendant. *Id.* He refused the demand. *Id.*

13 Plaintiff filed this action in July 2022. *Id.* The complaint sounds in claims for money  
14 had and received, unjust enrichment, fraud, and conversion. *Id.* In November 2022, the Clerk  
15 entered an Order of Default against Defendant. Dkt. # 6. Earlier this month, Plaintiff brought  
16 the motion as issue, seeking default judgment for the principal amount of the overpayment,  
17 prejudgment interest, and attorney fees and costs.

**III.****DISCUSSION****A. Applicable Legal Standards**

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21 If a defendant fails to plead or otherwise defend, the clerk enters the party's default.  
22 Fed. R. Civ. P. 55(a). Then, upon a plaintiff's request or motion, the court may grant default  
23 judgment for the plaintiff. Fed. R. Civ. P. 55(b)(2); *see Aldabe v. Aldabe*, 616 F.2d 1089, 1092

1 (9th Cir. 1980). On default judgment motions, “[t]he court must accept all well-pled allegations  
2 of the complaint as established fact, except allegations related to the amount of damages.” *UN4*  
3 *Prods., Inc. v. Primozich*, 372 F. Supp. 3d 1129, 1133 (W.D. Wash. 2019) (citing *TeleVideo*  
4 *Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987)). Courts typically consider these  
5 factors when evaluating a request for a default judgment:

6 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff’s  
7 substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at  
8 stake in the action; (5) the possibility of a dispute concerning material facts; (6)  
whether the default was due to excusable neglect, and (7) the strong policy  
underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

9 *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986). Default judgments are generally  
10 disfavored, so “default judgment is appropriate only if the well-pleaded factual allegations of  
11 the complaint suffice to establish a plaintiff’s entitlement to a judgment under the applicable  
12 law.” *Dentist Ins. Co. v. Luke St. Marie Valley Dental Grp., P.L.L.C.*, CASE NO. 2:21-cv-  
13 01229-JHC, 2022 WL 1984124 (W.D. Wash. Jun. 6, 2022) (citing *DIRECTV, Inc. v. Hoa*  
14 *Huynh*, 503 F.3d 847, 855 (9th Cir. 2007)).

#### 15 B. Application of *Eitel* Factors

##### 16 1. Prejudice to Plaintiff

17 “[P]rejudice exists where the plaintiff has no recourse for recovery other than default  
18 judgment.” *Curtis v. Illumination Arts, Inc.*, 33 F. Supp. 3d 1200, 1211 (W.D. Wash. 2014)  
19 (citation and internal quotation marks omitted). Defendant has failed to respond to this action,  
20 so default judgment is Plaintiff’s only means for recovery. *See Eve Nevada, LLC v. Derbyshire*,  
21 CASE NO. 21-0251-LK, 2022 WL 279030 (W.D. Wash. Jan. 31, 2022). Thus, this factor  
22 supports default judgment.

##### 23 2. Merits of Plaintiff’s Claims and Sufficiency of Complaint

1 “Courts often consider the second and third *Eitel* factors together.” *Developers Sur. and*  
2 *Indem. Co. v. View Point Builders, Inc.*, CASE NO. C20-0221JLR, 2020 WL 3303046, at \*5  
3 (W.D. Wash. Jun. 17, 2022). As mentioned above, the Court must accept all well-pleaded  
4 allegations in the complaint as established fact. Accepting such allegations, the complaint  
5 clearly suffices to state the causes of action directed against Defendant. Thus, the second and  
6 third *Eitel* factors weigh in favor of Plaintiff.

### 7 3. Sum of Money at Stake

8 This factor “considers whether the amount of money requested is proportional to the  
9 harm caused.” *Sun Life Assurance Co. of Canada v. Estate of Wheeler*, CASE NO. C19-  
10 0364JLR, 2020 WL 433352, at \*4 (W.D. Wash. Jan. 28, 2020). Here, because Plaintiff seeks  
11 recovery of the overpayment plus prejudgment interest, there is direct proportionality. Thus, the  
12 fourth *Eitel* factor supports default judgment.

### 13 4. Possibility of Dispute Over Material Facts

14 There is no sign that the material facts are in dispute. And again, “[t]he general rule of  
15 law is that upon default the factual allegations of the complaint, except those relating to  
16 damages, will be taken as true.” *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977).  
17 Defendant did not appear, so the Clerk correctly entered default against him. *See* Dkt. # 6.

### 18 5. Probability that Default was Because of Excusable Neglect

19 The sixth *Eitel* factor assesses whether Defendant’s default for failure to appear was  
20 because of excusable neglect. *Boards of Trustees of Inland Empire Elec. Workers Welfare Tr.*  
21 *v. Excel Elec. Servs., Inc.*, No. 2:21-CV-00200-MKD, 2022 WL 1243663, at \*4 (E.D. Wash.  
22 Apr. 26, 2022). Generally, courts do not find excusable neglect when defendants were properly  
23 served with the complaint. *See, e.g., Maersk Line v. Golden Harvest Alaska Seafood LLC*, No.

1 C20-1140-JLR-MLP, 2020 WL 6083464, at \*4 (W.D. Wash. Sept. 30, 2020), *report and*  
2 *recommendation adopted*, No. C20-1140 JLR, 2020 WL 6077419 (W.D. Wash. Oct. 15, 2020).  
3 Plaintiff establishes that it did properly serve Defendant. *See* Dkt. # 4. So this factor weighs in  
4 favor of default judgment.

5 6. Policy Favoring Decision on the Merits

6 Generally, cases “should be decided upon their merits whenever reasonably possible,”  
7 so courts disfavor default judgment on this factor. *Eitel*, 782 F.2d at 1472. But in this case,  
8 Defendant’s failure to appear or respond “makes a decision on the merits impractical, if not  
9 impossible,” so the Court is not precluded from granting default judgment. *PepsiCo, Inc. v.*  
10 *Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002); *see also Empl. Painters’ Trust v.*  
11 *Dahl Constr. Servs., Inc.*, CASE NO. C19-1541-RSM, 2020 WL 3639591 (W.D. Wash. July 6,  
12 2020). Thus, default judgment is an appropriate remedy in this case.

13 In sum, the *Eitel* factors support default judgment.

14 C. Damages; Attorney Fees & Costs.

15 Because the Court does not accept the amount of claimed damages as true in a default  
16 judgment motion, it must assess whether Plaintiff’s claimed damages are appropriate to award.  
17 *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). The plaintiff has the burden of  
18 proving its requested damages are reasonable and supported by evidence. *Bd. of Trs. Of the*  
19 *Boilermaker Vacation Tr. v. Skelly, Inc.*, F. Supp. 2d 1222, 1226 (N.D. Cal. 2005).

20 The “Declaration of Sadrine Johnson in Support of Plaintiff Caisse de Retraite Du  
21 Personnel Navigant Motion for Default Judgment” and the attachments thereto provide  
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1 sufficient evidence to support a damage award in the principal amount of \$429,320.86.<sup>1</sup> Dkt.  
2 # 7-1. Citing 28 U.S.C. §1961, Plaintiff provides an apparently accurate and reasonable  
3 calculation of prejudgment interest that is accruing on that amount: \$53.05 per day based on a  
4 statutory rate of 4.51%. Dkt. # 7. Such interest began to accrue on February 28, 2021, when  
5 Plaintiff made the last payment, which was 654 days ago. \$53.05 multiplied by 654 equals  
6 \$34,694.70, and Plaintiff will be awarded prejudgment interest in this amount.

7 Plaintiff, however, does not provide sufficient legal authority to support its request for  
8 attorney fees and costs. Plaintiff does not explain how the French law of fee-shifting would  
9 apply in this case. As for Washington law, apparently, neither a statute nor an agreement  
10 between the parties supports the request. And the Court remains unpersuaded that any  
11 recognized equitable ground supports the request; Plaintiff presents no case law squarely on  
12 point. Accordingly, the Court denies the request.

#### 13 IV.

#### 14 CONCLUSION

15 For the foregoing reasons, the Court GRANTS in part and denies in part Plaintiff's  
16 motion for default judgment. Plaintiff will have a judgment against Defendant in the principal  
17 amount of \$429,320.86, along with prejudgment interest in the amount of \$34,694.70 along  
18 with post-judgment interest on the entire amount until paid.

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23 <sup>1</sup> Plaintiff claims to have arrived at this amount by applying a 1 € = \$1.13 exchange rate (which  
24 appears reasonable to the Court, based on review of exchange rates at [www.federalreserve.gov](http://www.federalreserve.gov) over the  
time period at issue) to the 380,985.26 € owed. Dkt. # 7-1; *see* Fed. R. Evid. 201. While 1.13 multiplied  
by 380,985.26 equals 430,513.34, the Court will not award more principal than requested by Plaintiff.

1 Dated this 14th day of December, 2022.

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4 JOHN H. CHUN  
5 U.S. DISTRICT COURT JUDGE  
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