

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

JS Freight LLC v. Snow Joe LLC

JS Freight · No. 1:24-cv-00430-JLT-BAM · Decided October 20, 2025

OPINION

JS Freight LLC v. Snow Joe LLC

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 JS FREIGHT LLC, Case No. 1:24-cv-00430-JLT-BAM 12 Plaintiff, FINDINGS AND
RECOMMENDATIONS

REGARDING PLAINTIFF’S MOTION

13 v. FOR DEFAULT JUDGMENT

14 SNOW JOE LLC, (Doc. 25) 15 Defendant. FOURTEEN (14) DAY DEADLINE 16 17
Currently pending before the Court is Plaintiff JS Freight LLC’s (“Plaintiff” or “JS 18 Freight”) motion for default judgment against Defendant Snow Joe LLC (“Defendant” or “Snow 19 Joe”). (Doc. 25.) The motion was referred to the undersigned pursuant to 28 U.S.C. § 20 636(b)(1)(B) and Local Rule 302. Defendant did not file an opposition to the motion, and the 21 time in which to do so has passed. L.R. 230(c) (“Opposition . . . to the granting of the motion 22 shall be in writing and shall be filed and served no later than fourteen (14) days after the motion 23 was filed”). 24 The Court finds this matter suitable for decision without oral argument. L.R. 230(g). 25 Having considered the moving papers and the record in this action, and for the reasons that 26 follow, the Court RECOMMENDS that Plaintiff’s Motion for Default Judgment be GRANTED. 27 Further, the Court RECOMMENDS that to the extent Plaintiff requests attorneys’ fees and costs 28 herein, the request is DENIED without prejudice, and to the extent that Plaintiff wishes to seek 1 attorneys’ fees and costs, Plaintiff is ORDERED to submit supplemental briefing on the issue of 2 attorneys’ fees and costs no later than 30 days after the date this judgment is entered

3 I. FACTUAL BACKGROUND

4 Plaintiff JS Freight is a limited liability company incorporated in California. (Doc. 5 ¶ 1.) 5 Defendant Snow Joe is a limited liability company incorporated in New Jersey. (Id. ¶ 3.) 6 Plaintiff alleges that in September 2023, it contacted Defendant via a sales call, during 7 which Defendant orally agreed to use JS Freight as a broker for carrier services. (Id. ¶¶ 6, 12.) 8 Defendant accepted Plaintiff’s quote and sent several driving routes. (Id. ¶ 6.) From September 9 21, 2023 to December 12, 2023, Plaintiff completed several shipping loads for Defendant. (Id. ¶

10 7.) At the completion of each delivery, the receiving shipper provided a Bill of Lading to the 11 carrier that indicated a completed delivery, noting the type of goods shipped, the delivery origin, 12 and ending destination. (See Doc. 5, Exs. 1-83.) Plaintiff maintains that Defendant failed to 13 make required payments on outstanding invoices. (Id. ¶¶ 8-9.) According to Plaintiff, despite 14 “multiple attempts to gain payment,” Defendant has failed and continues to refuse to pay the 15 \$75,569 that it owes on the outstanding invoices. (Id. ¶ 8.) Plaintiff further alleges that “[d]ue to 16 the nonpayment from SNOW JOE, Plaintiff has been forced to close their business, lay off 17 employees, max out all lines of credit and loss of wages.” (Id. ¶ 9.) 18 Plaintiff brings a claim for breach of contract against Defendant and seeks \$75,569 in 19 damages, pre-judgment interest, and attorney’s fees and costs. (Id. at 15.)

20 II. PROCEDURAL BACKGROUND

21 On April 10, 2024, Plaintiff filed this action alleging a breach of contract by Defendant 22 due to Defendant’s failure to fully pay for the services rendered by Plaintiff. (Doc. 1.) On April 23 17, 2024, District Judge Jennifer L. Thurston issued an order dismissing the matter without 24 prejudice due to lack of subject matter jurisdiction and permitting Plaintiff to file an amended 25 complaint. (Doc. 4.) Plaintiff filed its First Amended Complaint (“FAC”) on May 8, 2024, which 26 was served on Defendant on July 2, 2024, by means of personal service. (Docs. 5, 9.) 27 On July 10, 2024, the Court convened a status conference to address service of process. 28 Plaintiff’s counsel noted that Plaintiff had filed a proof of service on July 9, 2024, which showed 1 personal service upon Defendant by personal service upon Snow Joe CEO Joseph Cohen. (Doc. 2 11.) At the hearing, Plaintiff’s counsel stated that Joseph Cohen was the agent for service of 3 process for Defendant. (Id.) On September 5, 2024, the Clerk of the Court entered default 4 against Defendant. (Doc. 15.) 5 On November 18, 2024, Plaintiff filed a Motion for Default Judgment. (Doc. 18.) The 6 Court directed Plaintiff to file an amended motion for default judgment that complied with Rule 7 55(b). (Doc. 19.) Plaintiff subsequently filed a Motion for Default Judgment on November 26, 8 2024. (Doc. 20.) On December 11, 2024, the Magistrate Judge issued Findings and 9 Recommendations to deny the motion on the basis that (1) Plaintiff did not include the requisite 10 affidavit showing the amount due that Fed. R. Civ. P. 55(b)(1) requires, and (2) Plaintiff 11 addresses none of the factors which may be considered by courts in exercising discretion as to the 12 entry of a default judgment under *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). 13 (Doc. 21.) On January 3, 2025, Judge Thurston adopted the Magistrate Judge’s Findings and 14 Recommendations in full and denied Plaintiff’s Motion for Default Judgment. (Doc. 22.) 15 On June 27, 2025, Plaintiff filed a second Motion for Default Judgment against Defendant 16 and supporting memorandum (Doc. 25), Declaration of Vishal Lal in support of the Motion for 17 Default Judgment (Doc. 26), Declaration for Garrett Wade in support of the Motion for Default 18 Judgment (Doc. 27), Request for Judicial Notice in support of the Motion for Entry of Default 19 Judgment (Doc. 28), and Proposed Orders for the Motion for Entry of Default Judgment (Docs. 20 29, 30.) Defendant was served with the motion papers on the same day via

mail. (Doc. 30.)

21 III. LEGAL STANDARD

22 Federal Rule of Civil Procedure (“Rule”) 55(b)(1) outlines the circumstances under which 23 the clerk of the court may enter default judgment. “If the plaintiff’s claim is for a sum certain or a 24 sum that can be made certain by computation, the clerk—on the plaintiff’s request, with an 25 affidavit showing the amount due—must enter judgment for that amount and costs against a 26 defendant who has been defaulted for not appearing and who is neither a minor nor an 27 incompetent person.” Fed. R. Civ. P. 55(b)(1). Rule 55(b)(2) states that in “all other cases, the 28 party must apply to the court for a default judgment.” Fed. R. Civ. P. 55(b)(2). “The court may 1 conduct hearings or make referrals—preserving any federal statutory right to a jury trial—when, 2 to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount 3 of damages; (C) establish the truth of any allegation by evidence; or (D) investigate any other 4 matter.” *Id.* “Upon default, the well-pleaded allegations of a complaint relating to liability are 5 taken as true.” *Dundee Cement Co. v. Howard Pipe & Concrete Prods., Inc.*, 722 F.2d 1319, 6 1323 (7th Cir. 1983); *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987). 7 Factors which may be considered by courts in exercising discretion as to the entry of a 8 default judgment include: (1) the possibility of prejudice to the plaintiff; (2) the merits of 9 plaintiff’s substantive claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in 10 the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was 11 due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil 12 Procedure favoring decisions on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 13 1986); *PepsiCo, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1174 (C.D. Cal. 2002).

14 IV. DISCUSSION

15 A. Service of Process 16 In deciding whether to grant or deny a default judgment, a court should assess the 17 adequacy of the service of process on the party against whom default is requested. See, e.g., 18 *Trujillo v. Harsarb, Inc.*, No. 1:21-cv-00342-NONE-SAB, 2021 WL 3783388 at *4 (E.D. Cal.

19 Aug. 26, 2021) (“As a general rule, the Court considers the adequacy of service of process before

20 evaluating the merits of a motion for default judgment.”); *Coach, Inc. v. Diva Shoes & 21 Accessories*, No. 10-5151 SC, 2011 WL 1483436 at *2 (N.D. Cal. Apr. 19, 2011); *Katzakian v. 22 Check Resolution Service, Inc.*, No. 1:10-cv-00716-AWI-GSA, 2010 WL 5200912 at *2 (E.D. 23 Cal. Dec. 15, 2010).

24 Rule 4 sets forth the requirements for serving a corporation, partnership, or association 25 within a judicial district of the United States. Pursuant to Rule 4(h), a domestic corporation, or a 26 partnership or other unincorporated association that is subject to suit under a common name, may 27 be served by following state law for service of a summons on an individual or by delivering a 28 copy of the summons and complaint to an officer or agent and by a mailing a copy

of each to the 1 defendant. Fed. R. Civ. P. 4(h)(1). In California, a corporation may be served by delivery to the 2 person designated as an agent for service of process, or to the “president, chief executive officer, 3 or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or 4 assistant treasurer, a controller or chief financial officer, a general manager, or a person 5 authorized by the corporation to receive service of process.” Cal. Civ. Proc. Code § 416.10. 6 According to the New Jersey Secretary of State, Defendant designated Defendant’s Chief 7 Executive Officer, Joseph Cohen, 221 River St, 13th Floor, Hoboken, NJ 07030, as its registered 8 agent for service of process. (See Doc. 28 at 10.) The Court therefore finds that Plaintiff properly 9 served Defendant Snow Joe pursuant to Rule 4(h) by serving its registered agent for service of 10 process. (See Docs. 9, 30.) See *Fudy Printing Co. v. Aliphcom, Inc.*, No. 17-CV-03863-JSC, 11 2019 WL 2180221, at *2 (N.D. Cal. Mar. 7, 2019), report and recommendation adopted, No. 17- 12 CV-03863-VC, 2019 WL 2180213 (N.D. Cal. Apr. 3, 2019) (finding preliminary requirement of 13 service of process satisfied where plaintiff served summons and complaint on incorporated entity 14 by personally serving its registered agent for service of process). 15 The current motion has also been served on Defendant. On June 27, 2025, a copy of (1) 16 the Notice of Motion, Motion for Entry of Default Judgment Against Defendant Snow Joe LLC, 17 and Supporting Memorandum of Points and Authorities, (2) Request for Judicial Notice, (3) 18 Declaration of Vishal Lal, (4) Declaration of Garrett Wade, and (5) Proposed Order Granting 19 Motion for Entry of Default Judgment were served on Snow Joe LLC by mail, c/o Joseph Cohen 20 at 221 River St., 13th Floor, Hoboken, NJ 07030. (Doc. 30.) Defendant has not filed any 21 response to the motion. 22 B. The Eitel Factors Weigh in Favor of Default Judgment 23 1. Possibility of Prejudice to Plaintiff 24 The first factor considers whether a plaintiff would suffer prejudice if default judgment is 25 not entered. See *PepsiCo, Inc.*, 238 F.Supp.2d at 1177. Plaintiff contends that it brokered 26 shipping and transport services for Defendant from August 2023 to December 2023 totaling 27 \$89,569.00. (Doc. 25 at 7.) Plaintiff provides that it only received one payment of \$14,000.00 28 and states that it has suffered damages in the amount of \$75,569.00 plus interest, attorneys’ fees, 1 and costs in bringing this suit. (Id. at 11.) 2 Generally, where default has been entered against a defendant, a plaintiff has no other 3 means by which to recover against that defendant. Id.; *MoroccanOil, Inc. v. Allstate Beauty 4 Prods.*, 847 F.Supp.2d 1197, 1200-01 (C.D. Cal. 2012). Plaintiff argues that if the Court declines 5 to enter judgment, it will have no recourse for its breach of contract damages. (Doc. 25 at 8.) 6 Here, the Court finds Plaintiff would be prejudiced if default judgment were not granted. 7 This factor weighs in favor of default judgment. 8 2. Merits of Plaintiff’s Claims and Sufficiency of the FAC 9 The second and third Eitel factors, taken together, “require that [the] plaintiff[s] state a 10 claim on which [they] may recover.” *PepsiCo, Inc.*, 238 F. Supp. 2d at 1175. Notably a 11 “defendant is not held to admit facts that are not well-pleaded or to admit conclusions of law.” 12 *DIRECTV, Inc. v. Hoa Huynh*, 503 F.3d 847, 854 (9th Cir. 2007) (internal citation omitted). 13 a) Breach of Contract 14 “Under California law, the elements of a breach of contract claim are: ‘(1)

the existence of 15 the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach 16 and (4) the resulting damages to the plaintiff.'" Fudy Printing Co., 2019 WL 2180221, at *3 17 (citing Oasis West Realty, LLC v. Goldman, 51 Cal. 4th 811, 821 (2011)). Here, accepting the 18 FAC's factual allegations as true, the parties entered into a valid oral contract on or about

19 September 2023 wherein Plaintiff agreed to act as a broker for carrier services and Defendant 20 agreed to pay. (Doc. 5 ¶¶ 6-7.) Plaintiff performed on its portion of the contract until December 21 12, 2023. (Id. ¶ 7.) Defendant breached the contract when it stopped paying the outstanding 22 invoices, leaving an outstanding balance of \$75,569. (Id. ¶¶ 8-10, 14.) These allegations are 23 legally sufficient to entitle Plaintiff to judgment against Defendant on the breach of contract 24 claim. See Fudy Printing Co., 2019 WL 2180221, at *3; Paramount Citrus Co-op., Inc. v. H & M 25 Produce Inc., No. 1:08-cv-01210-AWI-SMS, 2008 WL 4716764, at *5 (E.D. Cal. Oct. 24, 2008), 26 report and recommendation adopted, No. 1:08CV01210-AWI-SMS, 2008 WL 5389711 (E.D. 27 Cal. Dec. 24, 2008) (citing Cal. Civ. Code §§ 1550 et seq.) ("the Court notes that Plaintiff has 28 alleged the contract, its performance of the contract, [Defendant's] breach of the contract, and 1 damages. This is legally sufficient to entitle the Plaintiff to judgment against [Defendant] on the 2 claim for breach of contract.") 3 These factors therefore weigh in favor of default judgment. 4 3. The Sum of Money at Stake in the Action 5 Under the fourth factor cited in Eitel, "the court must consider the amount of money at 6 stake in relation to the seriousness of Defendant's conduct." PepsiCo, Inc., 238 F Supp.2d at 7 1176; see also Philip Morris USA, Inc. v. Castworld Prods., Inc., 219 F.R.D. 494, 500 (C.D. Cal. 8 2003). "When the money at stake is substantial, default judgment is discouraged." Bd. of Trs. v. 9 Core Concrete Constr., Inc., No. 11-02532 LB, 2012 WL 380304, at *4 (N.D. Cal. Jan. 17, 2012) 10 (internal citation omitted). However, when "the sum of money at stake is tailored to the specific 11 misconduct of the defendant, default judgment may be appropriate." Id. (internal citation 12 omitted). "In determining whether the amount at stake is reasonable, courts consider a plaintiff's 13 declarations, calculations, and other documentation of damages." Fudy Printing Co., 2019 WL 14 2180221, at *4. 15 Plaintiff requests \$75,569, which represents the sum of invoices for services that Plaintiff 16 provided and that Defendant did not pay for. (Doc. 5 ¶ 8.) Plaintiff's request is reasonable, 17 supported by undisputed allegations in the FAC, declarations, and submitted documentation. 18 Additionally, the sum "flows directly from [Defendant's] breach of contract." Fudy Printing Co., 19 2019 WL 2180221, at *5. 20 This factor therefore weighs in favor of default judgment. 21 4. The Possibility of a Dispute Concerning Material Facts 22 Following the Clerk's entry of default, the Court may assume the truth of well-pled facts 23 in the FAC and, thus, there is no likelihood that any genuine issue of material fact exists. Dundee 24 Cement Co., 722 F.2d at 1323; TeleVideo Sys., Inc., 826 F.2d at 917-18. Further, Defendant's 25 failure to file an answer in this case or a response to the instant motion supports the conclusion 26 that the possibility of a dispute as to material facts is minimal. See, e.g., Elektra Entm't Grp. Inc. 27 v. Crawford, 226

F.R.D. 388, 393 (C.D. Cal. 2005) (“Because all allegations in a well-pleaded complaint are taken as true after the court clerk enters default judgment, there is no likelihood that any genuine issue of material fact exists.”) Furthermore, Plaintiff properly served Defendant’s registered agent for service of process with the FAC and Motion for Default Judgment, but Defendant failed to appear and respond to the FAC or to this motion. See *Fudy Printing Co.*, 2019 WL 2180221, at *5 (“The record reflects [Defendant’s] silence despite opportunities to respond, so there is little possibility of a dispute of material facts.”) This factor therefore weighs in favor of default judgment.

5. Whether the Default Was Due to Excusable Neglect

The sixth Eitel factor considers the possibility that Defendant’s default resulted from excusable neglect. *PepsiCo, Inc.*, 238 F.Supp.2d at 1177. Courts have found that where a defendant was “properly served with the complaint, the notice of entry of default, as well as the paper in support of the [default judgment] motion,” there is no evidence of excusable neglect. *Shanghai Automation Instrument Co. v. Kuei*, 194 F.Supp.2d 995, 1005 (N.D. Cal. 2001). Upon review of the record, the Court finds that the default was not the result of excusable neglect. As discussed above, Defendant was properly served with the FAC and the Motion for Default Judgment. (Docs. 9, 30.) Despite service, Defendant has not appeared. Thus, the record suggests that Defendant has chosen not to participate in this action, and not that the default resulted from any excusable neglect. This factor weighs in favor of the entry of a default judgment.

6. The Strong Policy Favoring Decisions on the Merits

“Cases should be decided upon their merits whenever reasonably possible.” *Eitel*, 782 F.2d at 1472. However, district courts have concluded with regularity that this policy, standing alone, is not dispositive, especially where a defendant fails to appear or defend itself in an action. *PepsiCo, Inc.*, 238 F.Supp.2d at 1177; see also *Craigslist, Inc. v. Naturemarket, Inc.*, 694 F.Supp.2d 1039, 1061 (N.D. Cal. Mar. 5, 2010). Although the Court is cognizant of the policy favoring decisions on the merits, that policy is unavailable here because Defendant has not responded. This factor does not weigh against entry of default judgment.

1 V. DAMAGES

A. Principal Damages

Plaintiff has rendered services without payment totaling \$75,569.00. (Doc. 5 at 8.) Plaintiff has established that it is entitled to default judgment under Rule 55(b). Thus, Plaintiff is entitled to judgment for the amount of \$75,569.00.

B. Pre-judgment Interest

Plaintiff also seeks pre-judgment interest. First, Plaintiff argues that it is entitled to a rate of 18% pre-judgment interest under Cal. Civ. Code § 3289(a) (“Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, as before, until the contract is superseded by a verdict or other new obligation.”). (Doc. 25 at 23-25.) Plaintiff argues that it “incurred substantial debt at a rate of 18% interest to pay its carriers based on its good faith belief that it would receive prompt payment from Snow Joe,” and that it “would only be made whole if it were awarded 18% prejudgment interest to fully compensate it for both the value of the promised performance and consequential damages, including indirect and additional losses

incurred for the breach.” (Id. at 24.) 16 Alternatively, Plaintiff argues that if the Court is not inclined to award an 18% rate of pre- 17 judgment interest, it is entitled to a rate of 10% pre-judgment interest under Cal. Civ. Code § 18 3289(b) (“If a contract entered into after January 1, 1986, does not stipulate a legal rate of 19 interest, the obligation shall bear interest at a rate of 10 percent per annum after a breach.”) (Doc. 20 25 at 18.) 21 Here, Plaintiff adequately states the amount of pre-judgment interest it is seeking, 22 suggests the date when the interest began accruing, and otherwise explains how the court should 23 calculate such interest. *Diamondstar Ent. Holdings, LLC v. THH, LLC*, 641 F. Supp. 3d 849, 870 24 (C.D. Cal. 2022) (internal quotation marks and citation omitted). (Doc. 25 at 23-25.) As the 25 damages here are made certain by calculation, the Court finds that Plaintiff is entitled to pre- 26 judgment interest at a rate of 10% per annum from the time of the breach, which is the date the 27 invoice became due and payable through the date that this judgment is entered, and compounded 28 1 annually. (Doc. 27 ¶¶ 3, 7.) 1 See *Baltimore Aircoil Co., Inc. v. Solitaire Overseas*, No. 1:22-CV- 2 00952-KES-BAM, 2024 WL 1598885, at *7 (E.D. Cal. Apr. 12, 2024), report and 3 recommendation adopted, No. 1:22-CV-00952-KES-BAM, 2025 WL 958390 (E.D. Cal. Mar. 31, 4 2025) (finding same). 5 C. Attorneys’ Fees and Costs 6 Plaintiff’s Motion states that Plaintiff seeks damages of \$75,569.00, pre-judgment interest 7 according to proof, and reasonable attorneys’ fees and costs of suit. (Doc. 25 at 20.) The Motion 8 does not include further argument relating to Plaintiff’s request for attorneys’ fees. To the extent 9 that Plaintiff wishes to seek attorneys’ fees and costs, Plaintiff is ordered to submit supplemental 10 briefing on the issue of attorneys’ fees and costs.

11 VI. CONCLUSION AND RECOMMENDATION

12 Based on the foregoing, the Court HEREBY RECOMMENDS that Plaintiff’s Motion for 13 Default Judgment (Doc. 25) be GRANTED. Accordingly, the Court RECOMMENDS that: 14 A. Default judgment be entered in favor of Plaintiff JS Freight LLC and against 15 Defendant Snow Joe LLC; 16 B. Plaintiff be awarded damages in the principal sum amount of \$75,569.00; 17 C. Plaintiff be awarded pre-judgment interest on the principal sum amount pursuant 18 to Cal. Civ. Code § 3289(b), to be calculated at a rate of 10% annually from the 19 date the invoice became due and payable, until the date this judgment is entered; 20 D. Plaintiff’s request for attorneys’ fees and costs is DENIED without prejudice, and 21 to the extent that Plaintiff wishes to seek attorneys’ fees and costs, Plaintiff is 22 ORDERED to submit supplemental briefing on the issue of attorneys’ fees and 23 costs no later than 30 days after the date this judgment is entered; and 24 1 Plaintiff’s Declaration of Garrett J. Wade, submitted in support of Plaintiff’s Motion for Default 25 Judgment, (Doc. 27) calculates the amount of pre-judgment interest from the date the invoice is due and payable through August 1, 2025, compounded annually. (Doc. 27 ¶¶ 3, 7.) August 1, 26 2025 was selected because it was the anticipated date of the hearing of this motion. (See Doc. 27 32.) The Court revises this calculation to be calculated at a rate of 10% annually from the date the invoice became due and payable, until the date this judgment is entered. See *Phillips 66 Co. 28 v. Grainer*, No. 1:13-CV-1890 LJO-BAM, 2015 WL 3797396, at *6 (E.D. Cal. June 18, 2015). 1

Plaintiff is HEREBY ORDERED to mail a copy of these findings and recommendations 2 to Defendant at the address of Defendant's registered agent for service of process. 3 These Findings and Recommendations will be submitted to the United States District 4 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 5 fourteen (14) days after being served with these Findings and Recommendations, the parties may 6 file written objections with the court. The document should be captioned "Objections to 7 Magistrate Judge's Findings and Recommendations." Objections, if any, shall not exceed 8 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page 9 number if already in the record before the Court. Any pages filed in excess of the 15-page 10 limit may not be considered. The parties are advised that failure to file objections within the 11 specified time may result in the waiver of the "right to challenge the magistrate's factual 12 findings" on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 14 IT IS SO ORDERED. 15 16 Dated: October 20, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

17 18 19 20 21 22 23 24 25 26 27 28