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9 LAW FINANCE GROUP, LLC

FILED
Superior Court of California
County of Los Angeles

07/09/2019

Sherri R. Carter, Executive Officer / Clerk of Court

By: C. Mason Deputy

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

LAW FINANCE GROUP, LLC, a California
limited liability company,

Plaintiff,

vs.

GIRARDI KEESE, a California law firm;
THOMAS V. GIRARDI, an individual; and
DOES 1 through 10, inclusive,

Defendants.

Case No. 19STCV01455

[Hon. Gregory W. Alarcon, Dept. 36]

**PLAINTIFF LAW FINANCE GROUP, LLC'S
EX PARTE APPLICATION FOR ENTRY OF
STIPULATED JUDGMENT**

*[Declaration of Christopher Frost & Proposed
Order Filed Concurrently]*

Hearing Date: July 9, 2019
Hearing Time: 8:30 a.m.
Hearing Place: Stanley Mosk Courthouse
Dept.: 36

NOTICE OF APPLICATION AND APPLICATION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to California Rules of Court, Rule 3.1200 *et seq.* and Code of Civil Procedure Section 664.6, on July 9, 2019 at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 36 of the above-entitled Court, located at 111 N. Hill Street, Los Angeles, CA 90012, Plaintiff Law Finance Group, LLC (“Plaintiff”) will and hereby does respectfully apply *ex parte* for entry of judgment in the amount of \$6,000,000 against Defendants Girardi Keese and Thomas V. Girardi (“Defendants”) per a Stipulated Judgment dated as of June 11, 2019.


Good cause exists to grant Plaintiff’s Application. On May 6, 2019, Plaintiff and Defendants entered into a Settlement Agreement providing that Defendants would pay Plaintiff \$16,000,000 by June 7, 2019. Defendants paid \$10,000,000 to Plaintiff on June 7, 2019. On June 11, 2019, the parties stipulated that if Defendants failed to pay the outstanding \$6,000,000 by July 7, 2019, Plaintiff could seek entry of judgment against Defendants in that amount. Defendants have not paid the \$6,000,000 balance. Entry of judgment against Defendants for \$6,000,000 is warranted.

As is set forth in the Declaration of Christopher Frost (“Frost Decl.”) filed concurrently herewith, Plaintiff’s counsel timely provided notice of this application to Defendants’ counsel of record, pursuant to California Rules of Court, Rule 3.1203, via email on July 8, 2019 at approximately 9:30 a.m. Frost Decl. ¶ 2.

This *ex parte* application is based on this Notice, the accompanying Memorandum of Points and Authorities, the Declaration of Christopher Frost and exhibits thereto, the pleadings and files on record in this action, and upon such further evidence and argument as the Court may consider at the hearing on this application.

Dated: July 8, 2019

EISNER, LLP

By: 

Christopher Frost
Attorneys for Plaintiff

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND STATEMENT OF FACTS**

3 On January 17, 2019, Plaintiff filed a lawsuit against Defendants to recover on an
4 outstanding debt in the amount of approximately \$15,151,989 owed Plaintiff by Defendants pursuant
5 to a Forbearance Agreement dated as of August 1, 2018, and for related relief. Defendants never
6 disputed that they owed the money Plaintiff sought. *See* Frost Decl. ¶ 3. In fact, Defendants
7 repeatedly have admitted and acknowledged the substantial debt at issue. *Id.* The action was
8 nonetheless necessary to compel Defendants to pay.

9 On May 6, 2019, Plaintiff and Defendants agreed in writing to settle Plaintiff’s claims by
10 entering into a Settlement Agreement. The Settlement Agreement, a true and correct copy of which
11 is attached to the Frost Declaration as **Exhibit A**, provides that Defendants would pay Plaintiff
12 \$16,000,000 (“Settlement Amount”) on or before June 7, 2019. The Settlement Agreement also
13 provides: “Should Defendants fail to pay the full Settlement Amount by June 7, 2019, [Plaintiff]
14 reserves the right to . . . enforce the terms and conditions of this Settlement Agreement.” Frost Decl.
15 ¶ 4, Ex. A at p. 2, ¶1. In addition, the parties agreed “the Superior Court of the State of California
16 shall retain jurisdiction to enforce the terms of this Settlement Agreement pursuant to Code of Civil
17 Procedure Section 664.6. The Parties agree that this Settlement Agreement may be introduced into
18 evidence in any subsequent proceeding to enforce the terms of the Settlement Agreement.” *Id.*

19 On June 7, 2019, Defendants paid \$10,000,000 towards the Settlement Amount and
20 concurrently promised to pay the outstanding balance of \$6,000,000 (“Default Amount”) by no later
21 than July 7, 2019. Frost Decl. ¶ 5. On June 11, 2019, in connection with Defendants’ partial
22 satisfaction of the Settlement Amount, the parties executed a stipulation for entry of judgment
23 (“Stipulated Judgment”) which would take effect in the event Defendants did not pay the Default
24 Amount by July 7, 2019. A true and correct copy of the Stipulated Judgment (which incorporates
25 the Settlement Agreement by reference) and the corresponding Proposed Judgment are attached to
26 the Declaration of Christopher Frost as **Exhibit B**. In particular, the parties agreed that “[i]f
27 Defendants fail to timely remit full payment of the Settlement Amount to Plaintiff in the manner
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1 prescribed by the Settlement Agreement, including payment of the outstanding Six Million Dollars
2 [*i.e.*, the Default Amount] on or before July 7, 2019, Plaintiff shall be entitled to file this Stipulation
3 and seek entry of the attached Judgment. Defendants waive all rights to challenge the entry of the
4 Judgment, other than on the basis that there existed no default, or the default was otherwise timely
5 cured.” Frost Decl. ¶ 6, Ex. B at p. 1, ¶ 3.¹

6 July 7, 2019 has come and gone. Defendants have not paid the Default Amount, nor have
7 Defendants indicated whether or when they will pay the Default Amount. *Id.* ¶ 7.

8 **II. THE COURT MUST ENTER JUDGMENT AGAINST DEFENDANTS**

9 Code of Civil Procedure Section 664.6 empowers this Court to enforce the Settlement
10 Agreement and Stipulated Judgment and to enter judgment against Defendants and in favor of
11 Plaintiff. Section 664.6 provides, in relevant part, that “[i]f parties to pending litigation stipulate, in
12 a writing signed by the parties outside the presence of the court . . . for settlement of the case . . . the
13 court, upon motion, may enter judgment pursuant to the terms of the settlement.” The purpose of
14 Section 664.6 is to provide “an expedient and cost effective means of enforcing a settlement
15 agreement.” *See Provost v. Regents of Univ. of Cal.* (2011) 201 Cal. App. 4th 1289, 1298 (citation
16 omitted). A trial court can enforce a settlement for a judgment when the court finds the parties
17 expressly consented to the material terms of the settlement. *Bowers v. Raymond J. Lucia*
18 *Companies, Inc.* (2012) 206 Cal. App. 4th 724, 732.

19 Here, the parties expressly agreed that in the event Defendants breached the Settlement
20 Agreement by failing to pay the Default Amount, this Court would enforce the Settlement
21 Agreement and enter the Stipulated Judgment for the Default Amount of \$6,000,000. *See Frost*
22 *Decl., Exs. A–B.* As of today, Defendants are in breach of the Settlement Agreement because they
23 have failed to pay the Default Amount, which was due by no later than July 7, 2019. The Stipulated
24

25 ¹ The Stipulated Judgment further provides: “The Parties represent that they have been advised by
26 legal counsel in connection with the negotiation of this Stipulation and the Judgment, and that they
27 have been advised by such counsel that by signing this Stipulation they are waiving: (i) their right
28 to a jury trial in this matter, and (ii) the right to appeal or otherwise challenge the Judgment if
entered, and they understand the consequences of these waivers. These waivers are voluntary and
made with full knowledge of their significance.” *Id.* at ¶4.

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Judgment is thus now warranted. Defendants have not since indicated whether they will pay the Default Amount or when Plaintiff can expect payment of the Default Amount. Pursuant to the Settlement Agreement and the Stipulated Judgment, entry of judgment against Defendants in the amount of \$6,000,000 is necessary and proper. The Court should grant this Application and enter judgment against Defendants in favor of Plaintiff in the amount of \$6,000,000.

III. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court enter judgment against Defendants in the amount of \$6,000,000.

Dated: July 8, 2019

EISNER, LLP

By: 

Christopher Frost
Attorneys for Plaintiff

E I S N E K
9601 WILSHIRE BOULEVARD, 7TH FLOOR
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PROOF OF SERVICE

Law Finance Group, LLC v. Girardi Keese, et al.
Los Angeles Superior Court Case No. 19STCV01455

STATE OF CALIFORNIA,

COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is Eisner, LLP, 9601 Wilshire Boulevard, 7th Floor, Beverly Hills, California 90210.

On July 8, 2019 I served a copy of the foregoing document described as:
PLAINTIFF LAW FINANCE GROUP, LLC'S EX PARTE APPLICATION FOR ENTRY OF STIPULATED JUDGMENT on the interested parties in this action addressed as follows:

SEE ATTACHED SERVICE LIST

- BY MAIL** (CCP §1013(a) and (b)): I am readily familiar with the firm's practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice such envelope(s) is deposited with the U.S. Postal Service on the same day this declaration was executed, with postage thereon fully prepaid at 9601 Wilshire Boulevard, 7th Floor, Beverly Hills, California 90210, in the ordinary course of business.
- BY PERSONAL SERVICE** (CCP §1011): I caused to be served by hand to the addressee(s) as stated above.
- BY OVERNIGHT DELIVERY** (CCP §1013 (c) and (d)): I am readily familiar with the firm's practice of collection and processing items for delivery with Overnight Delivery. Under that practice such envelope(s) is deposited at a facility regularly maintained by Overnight Delivery or delivered to an authorized courier or driver authorized by Overnight Delivery to receive such envelope(s), on the same day this declaration was executed, with delivery fees fully provided for at 9601 Wilshire Boulevard, 7th Floor, Beverly Hills, California 90210, in the ordinary course of business.
- BY ELECTRONIC TRANSMISSION.** Pursuant to Cal. R. Ct. 3.1206, I caused the document to be sent to the persons at the e-mail addresses listed herein. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 8, 2019, at Beverly Hills, California.



Corwyn Braschi

SERVICE LIST

Law Finance Group, LLC v. Girardi Keese, et al.
Los Angeles Superior Court Case No. 19STCV01455

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