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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 NORTH COUNTY
12 COMMUNICATIONS CORPORATION,
13 Plaintiff,
14 v.
15 SPRINT COMMUNICATIONS
16 COMPANY, L.P.,
17 Defendant.

Case No.: 09-CV-2685-CAB-JLB

**ORDER INSTRUCTING CLERK OF
COURT TO ENTER JUDGMENT
FOR DEFENDANT/COUNTER
CLAIMANT**

18 SPRINT COMMUNICATIONS
19 COMPANY, L.P.,
20 Counter Claimant,
21 v.
22 NORTH COUNTY
23 COMMUNICATIONS CORPORATION,
24 Counter Defendant.
25

26 After a bench trial, the Court entered findings of fact and conclusions of law finding
27 for Defendant/Counterclaimant Sprint Communications Company, L.P. (“Sprint”), but also
28 finding that Sprint had no recoverable damages within the two-year statute of limitations

1 period of the Communications Act of 1934, which the Court held applied to the parties’
2 contract. The order stated that “[j]udgment is entered in accordance with this order. All
3 other causes of action having been dismissed, the Clerk is directed to close this case.”
4 [Doc. No. 319 at 18.] On September 28, 2015, the Clerk of Court entered judgment and
5 closed the case in accordance with the Court’s order. [Doc. No. 321.] On October 28,
6 2015, Plaintiff/Counterdefendant North County Communications Corporation (“NCC”)
7 filed a notice of appeal to the United States Court of Appeals for the Ninth Circuit “from
8 the final judgment entered in this action on September 28, 2015.” [Doc. No. 326.] Sprint
9 filed a notice of cross-appeal on November 6, 2015. [Doc. No. 329.]

10 In its May 26, 2017 memorandum disposition of the parties’ cross-appeals, the Ninth
11 Circuit affirmed the Court’s finding in favor of Sprint and against NCC on the parties’
12 breach of contract claims, but reversed the Court’s finding a two-year statute of limitations
13 applied. Thus, the Ninth Circuit remanded to this Court “to apply the California law
14 limitations period, calculated based on the filing of the complaint. Costs are awarded to
15 Sprint.” [Doc. No. 345 at 7.] On July 13, 2017, after denying NCC’s petition for rehearing
16 [Doc. No. 339], the Ninth Circuit entered its mandate based on its May 26, 2017 judgment
17 [Doc. No. 345 at 1]. The Court spread this mandate at a hearing on July 27, 2017. [Doc.
18 No. 345.]

19 In advance of the July 27, 2017 hearing, Sprint submitted a calculation of its
20 damages based upon the application of California’s four-year statute of limitations period
21 from the filing of the complaint. Sprint’s filing sought an award of \$2,855,985.77 as of
22 July 14, 2017, plus an additional \$381.22 per day until judgment is entered on its damages.
23 [Doc. No. 343.] At the July 27, 2017 hearing, NCC asked for time to reply to Sprint’s
24 submission, so the Court granted NCC leave to file a response no later than August 18,
25 2017. [Doc. No. 346.] In its August 18, 2017 response, NCC stated that it does not dispute
26 Sprint’s damages calculation. [Doc. No. 347 at 1.] However, NCC claimed that this case
27 had been bifurcated into two phases and asked the Court stay entry of judgment until the
28 second phase is completed. [*Id.* at 3.]

1 The Court disagrees with NCC's characterization of the posture of this case. The
 2 judgment from which NCC appealed was clear that it was final and that it resolved all
 3 remaining claims in the case, because all other claims had been dismissed. Had there been
 4 a bifurcation with remaining claims to be resolved notwithstanding the bench trial, the
 5 judgment would not have been final and the Court would not have ordered that this case
 6 be closed. Further, if NCC believed that additional claims had not been dismissed and still
 7 needed to be resolved, it was obligated to raise that issue with this Court before appealing,
 8 or at a minimum, raise the issue on appeal. NCC did neither. Moreover, the mandate from
 9 the Ninth Circuit is equally clear that this case was remanded solely for the purpose of
 10 entering judgment for Sprint based on Sprint's damages as calculated using the four-year
 11 California statute of limitations period.

12 Accordingly, pursuant to the mandate of the Ninth Circuit, and in light of the lack of
 13 dispute between the parties as to the amount of Sprint's damages, it is hereby **ORDERED**
 14 that the Clerk of Court shall enter **JUDGMENT** in favor of Sprint and against NCC for
 15 **\$2,873,140.67**¹ and **CLOSE THIS CASE**.

16 It is **SO ORDERED**.

17 Dated: August 28, 2017



Hon. Cathy Ann Bencivengo
 United States District Judge

1 As of the date of this order, 45 days have passed since July 14, 2017. $45 \times \$381.22 = \$17,154.90$.
 $\$17,154.91 + \$2,855,985.77 = \$2,873,140.67$.