

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Pierre v. Community Regional Medical Center

Pierre · No. 1:25-cv-00322-KES-SKO · Decided July 9, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Fresno Community Hospital and Medical Center’s motion to set aside the Clerk’s entry of default in a putative wage-and-hour class and collective action. Applying Federal Rule of Civil Procedure 55(c), the court finds no culpable conduct, a potential meritorious defense based on arbitration, and no tangible prejudice to the plaintiff. The court vacates the scheduled hearing, sets aside the default, and deems the defendant’s lodged answer filed as of the order’s date.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 9, 2025
DOCKET	1:25-cv-00322-KES-SKO
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to set aside the Clerk's entry of default in a putative FLSA collective and California wage-and-hour class action. The court construed the motion, styled under Federal Rule of Civil Procedure 60, as a motion under Rule 55(c) because no default judgment had been entered.
STANDARD OF REVIEW	The court applied Federal Rule of Civil Procedure 55(c)'s good-cause standard and exercised discretion in evaluating culpable conduct, the existence of a meritorious defense, and prejudice. The standard is applied more liberally to an entry of default than to a default judgment, consistent with the preference for resolving cases on the merits.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

TOPICS

default

civil procedure

flsa

class actions

arbitration

PRACTICE AREAS

civil procedure

employment law

wage and hour

flsa

health law

QUESTIONS PRESENTED

1. Whether the Hospital showed good cause under Federal Rule of Civil Procedure 55(c) to set aside the Clerk's entry of default.
2. Whether the Hospital's failure to respond was culpable or resulted from intentional, willful, deliberate, or bad-faith conduct.
3. Whether the Hospital presented specific facts constituting a potentially meritorious defense.
4. Whether setting aside the entry of default would cause Plaintiff tangible prejudice beyond delay.

HOLDINGS

1. Good cause existed to set aside the Clerk's entry of default because the Hospital was not culpable, presented facts supporting a potentially meritorious defense, and Plaintiff failed to show tangible prejudice.
2. The Hospital's failure to respond was not culpable because the record did not establish an intentional, willful, deliberate, or bad-faith failure to answer.
3. The Hospital satisfied the minimal meritorious-defense requirement by presenting specific facts supporting a potential defense based on an arbitration agreement that it might enforce as a third-party beneficiary under equitable estoppel.
4. Setting aside the entry of default would not cause cognizable prejudice because Plaintiff showed no tangible harm beyond delay.

KEY QUOTATIONS

"Rule 55 requires a "two-step process" consisting of: (1) seeking a clerk's entry of default, and (2) filing a motion for the entry of default judgment." (at 2)

"judgment by default is a drastic step appropriate only in extreme circumstances; a case should, whenever possible, be decided on the merits" (at 3)

"The Hospital's failure to answer resulted from excusable neglect and not from an attempt to manipulate the legal process or take advantage of Plaintiff" (at 5)

"An entry of default acts as a "windfall," and setting aside that default "merely restores the parties to an even footing in the litigation." (at 8)

FACTUAL BACKGROUND

Plaintiff alleged that the Hospital misclassified nursing staff as independent contractors and thereby violated the FLSA, California Labor Code, and California unfair-competition laws concerning overtime, meal and rest

breaks, wage statements, and termination pay. The Hospital's service agent inadvertently failed to calendar the response deadline, and the Hospital did not retain outside counsel until a potential third-party conflict was resolved. After learning of the default, the Hospital promptly sought to have it withdrawn and later presented a potential arbitration-based defense.

PROCEDURAL HISTORY

Plaintiff filed the action on March 17, 2025, and served the Hospital's agent on March 20, 2025. After the Hospital failed to timely respond, the Clerk entered default on April 30, 2025. The Hospital learned of the default on May 1, sought Plaintiff's agreement to set it aside, retained counsel after resolving a potential conflict, and filed the motion on June 9, 2025. The court vacated the hearing, granted the motion, set aside the entry of default, and deemed the Hospital's lodged answer filed as of July 9, 2025.

DISPOSITION

other

CASES CITED

- Eitel v. McCool, 782 F.2d 1470, 1471 (9th Cir. 1986)
- Symantec Corp. v. Global Impact, Inc., 559 F.3d 922, 923 (9th Cir. 2009)
- Franchise Holding II, LLC v. Huntington Rests. Group, Inc., 375 F.3d 922, 925-26 (9th Cir. 2004)
- United States v. Signed Personal Check No. 730 of Yubran S. Mesle, 615 F.3d 1085, 1089, 1091-95 (9th Cir. 2010)
- Brandt v. American Bankers Insurance Co., 653 F.3d 1108, 1111-12 (9th Cir. 2011)
- O'Connor v. State of Nevada, 27 F.3d 357, 364 (9th Cir. 1994)
- Westchester Fire Insurance Co. v. Mendez, 585 F.3d 1183, 1189 (9th Cir. 2009)
- TCI Group Life Insurance Plan v. Knoebber, 244 F.3d 691, 697, 701 (9th Cir. 2001)
- Egelhoff v. Egelhoff, a minor, by and through her natural parent, Breiner, et al., Egelhoff v. Egelhoff ex rel. Breiner, 532 U.S. 141 (2001)
- American Alliance Insurance Co., Ltd. v. Eagle Insurance Co., 92 F.3d 57, 61 (2d Cir. 1996)
- Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc., 840 F.2d 685, 690 (9th Cir. 1988)
- Garner v. Wells Fargo Home Mortgage, Inc., No. 1:10-CV-266, 2011 WL 2413841, at *3 (D. Idaho June 9, 2011)
- Neev v. Abbott Medical Optics Inc., No. SACV 15-01992 JVS(JCGx), 2017 WL 11628868, at *3 (C.D. Cal. Apr. 3, 2017)
- Calleja v. Cannon, No. CV-15-01120-PHX-NVW, 2015 WL 13574284, at *1 (D. Ariz. Nov. 25, 2015)
- Howard v. City of Ridgecrest, No. 1:12-CV-01232 AWI, 2012 WL 4862352, at *2 (E.D. Cal. Oct. 11, 2012)
- Laurino v. Syringa General Hospital, 279 F.3d 750, 753 (9th Cir. 2002)
- Black v. Stafford, No. CIV. S-10-567 FCD, 2011 WL 3925066, at *3 (E.D. Cal. Sept. 7, 2011)

- J & J Sports Productions, Inc. v. Aranda, No. 1:12-CV-1508-AWI-BAM, 2013 WL 3773865, at *4 (E.D. Cal. July 17, 2013)
- Williams v. Dawley, No. 08-799 FCD-EFB, 2008 WL 3540360, at *2 (E.D. Cal. Aug. 12, 2008)
- Mendoza v. Wight Vineyard Management, 783 F.2d 941, 945-46 (9th Cir. 1986)
- Whitmore v. Universal American Mortgage Co. LLC, No. CV-14-01299-PHX-DGC, 2014 WL 5431203, at *3 (D. Ariz. Oct. 27, 2014)
- Droesch v. Wells Fargo Bank, N.A., No. 20-CV-06751-JSC, 2021 WL 2805604, at *1-3 (N.D. Cal. July 6, 2021)
- United States v. Howard, 381 F.3d 873, 876 n.1 (9th Cir. 2004)
- United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980)
- Huerta v. Akima Facilities Management, LLC, No. 16-CV-00434-KAW, 2017 WL 783686, at *4 (N.D. Cal. Mar. 1, 2017)

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8
 9 JEAN RICHARD PIERRE, Individually and Case No. 1:25-cv-00322-KES-SKO for Others
 Similarly Situated, 10 ORDER VACATING HEARING AND Plaintiff, GRANTING
 DEFENDANT’S MOTION 11 TO SET ASIDE ENTRY OF DEFAULT vs. 12 (Doc. 14)
 COMMUNITY REGIONAL MEDICAL 13 CENTER f/k/a FRESNO COMMUNITY HOSPITAL
 AND MEDICAL CENTER, 14 Defendant.

15 _____/ 16 17 Presently before the Court is the motion
 of Defendant Fresno Community Hospital and 18 Medical Center (the “Hospital”) (erroneously
 named as Community Regional Medical Center f/k/a 19 Fresno Community Hospital and Medical
 Center) to set aside the Clerk’s entry of default, filed June 20 9, 2025.1 (Doc. 14.)

On June 23, 2025, Plaintiff Jean Richard Pierre filed an opposition to the 21 motion. (Doc. 18.)
 The Hospital replied on July 3, 2025. (Doc. 19.) 22 The Court finds the motion suitable for
 determination on the papers submitted and without 23 oral argument. See E.D. Cal. Local Rule
 230(g).

Accordingly, the hearing set for July 16, 2025, 24 will be vacated. For the reasons set forth below,
 the motion to set aside the Clerk’s entry of default 25 26 1 The Hospital’s motion is styled as one
 to set aside default judgment under Fed. R. Civ. P. 60.

As there has been no default judgment entered in this case, the Court construes the Hospital’s
 request as one to set aside entry of default under 27 Fed. R. Civ. P. 55. As the Ninth Circuit Court
 of Appeals has stated, Rule 55 requires a “two-step process” consisting of: (1) seeking a clerk’s
 entry of default, and (2) filing a motion for the entry of default judgment.

See *Eitel v. McCool*, 28 782 F.2d 1470, 1471 (9th Cir. 1986); accord *Symantec Corp. v. Global Impact, Inc.*, 559 F.3d 922, 923 (9th Cir. 2009) 1 against the Hospital will be granted. 2 I. BACKGROUND 3 On March 17, 2025, Plaintiff filed this putative class and collective action against the 4 Hospital for alleged violations of the Fair Labor Standards Act, and California’s Labor Code and 5 unfair competition laws.

(Doc. 1.) Plaintiff alleges in his complaint that the Hospital misclassified 6 him and all other similarly situated nursing staff as independent contractors and failed to provide 7 them, as employees, with (1) pay for all overtime worked; (2) proper meal and rest breaks; (3) 8 complete and accurate wage statements; and (4) all pay owed at the time of termination.

(See *id.*) 9 According to the proof of service, on March 20, 2025, service on the Hospital was made on 10 its agent, Paralegal Christina Torres. (Doc. 5.) The Hospital claims Ms. Torres “inadvertently 11 neglected to calendar the deadline to respond to the Complaint” (Doc. 14-1 at ¶3), and the Hospital 12 did not file a responsive pleading within the time allotted by law.

On April 30, 2025, Plaintiff 13 requested that the Clerk of Court enter default against the Hospital (Doc. 7), which was entered that 14 same day (Doc. 8). 15 The Hospital learned of the entry of default on May 1, 2025, when in-house counsel 16 Jeannette Albo checked on the status of the case via PACER. (Doc. 14-1 ¶ 4.) Ms. Albo sent 17 Plaintiff’s counsel, William Hogg, an email on that same date and inquired whether he would agree 18 to “withdraw [the default] or request it be set aside,” as “[o]ur staff dropped the ball after the 19 Complaint was served and we accidentally blew the deadline to respond.” (Id. ¶¶ 5–6 and Ex. C. 20 See also Doc.

18-3.) Mr. Hogg responded on May 2, 2025, that he would agree to set aside the 21 default “under the condition[s] that (i) we stipulate to a date certain for [the Hospital] to file an 22 answer; (ii) [the Hospital] not file a motion to dismiss or other challenge to the pleadings; and (iii) 23 [the Hospital] does not try to compel any claims to arbitration.” (Id. ¶7 and Ex. D. See also Doc.

24 18-3.) 25 Ms. Albo and Mr. Hogg further met and conferred regarding the Hospital’s request to set 26 aside the default on May 2, 5, and 9, 2025, but no agreement was reached (Doc. 14-1 ¶ 8–9 and 27 Exs. E & F. See also Doc. 18-3.)

On May 19, 2025, after resolving a potential third-party conflicts 28 issue, the Hospital retained the law firm of Seyfarth Shaw LLP (“Seyfarth Shaw”) to represent it in 1 this matter.² (Doc. 14-1 ¶ 10; Doc. 14-2 ¶ 6.; Doc. 19-1 ¶¶ 3–6.) Ashley Stein of Seyfarth Shaw 2 contacted Mr. Hogg on May 28, 2025, to inform him of her firm’s retention by the Hospital and to 3 again request that he agree to set aside entry of default.

(Doc. 14-2 ¶ 8.) Mr. Hogg reiterated that 4 he would only agree subject to the conditions previously communicated to Ms. Albo. (Id.) Ms. 5 Stein declined, and informed Mr. Hogg that the Hospital would be filing a motion to set aside. (Id. 6 ¶¶ 8–9 and Ex. B.)

On June 9, 2025, the Hospital filed the present motion. 7 II. DISCUSSION 8 A. Legal Standard 9 Federal Rule of Civil Procedure 55 governs the entry of default by the clerk and the 10 subsequent entry of default judgment by either the clerk or the district court.

In relevant part, Rule 11 55(a) provides: 12 (a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by 13 affidavit or otherwise, the clerk must enter the party's default. 14 Fed. R. Civ. P. 55(a). 15 Federal Rule of Civil Procedure 55(c) provides that "[t]he court may set aside an entry of 16 default for good cause...." The party seeking relief from the entry of default bears the burden of 17 showing good cause to set aside the entry of default.

See *Franchise Holding II, LLC v. Huntington 18 Rests. Group, Inc.*, 375 F.3d 922, 926 (9th Cir. 2004). A court considers three factors in determining 19 whether good cause exists: "(1) whether [the party seeking to set aside the default] engaged in 20 culpable conduct that led to the default; (2) whether [it] had [no] meritorious defense; or (3) whether 21 reopening the default judgment would prejudice the other party."3 *United States v. Signed Personal 22 Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir.

2010) (hereafter, "Mesle") 23 (modification in original) (quoting *Franchise Holding II, LLC*, 375 F.3d at 925–26). 24 25 2 At the time of retention, Seyfarth Shaw was also representing Defendant in a "related case with overlapping allegations" filed by Mr. Hogg in this Court. (Doc. 14-2 ¶ 3 (citing *Lea Deneus-Coley v. Fresno Community Hospital 26 and Medical Center d/b/a Clovis Community Medical Center*, Case No. 1:25-cv-00306-JLT-HBK (filed March 12, 2025)).)

The Court takes judicial notice of this action (Doc. 19-2) but expresses no opinion on its merits. See *United 27 States v. Howard*, 381 F.3d 873, 876 n.1 (9th Cir. 2004); *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980); see also Fed R. Evid. 201. 28 3 This standard is the same as is used to determine whether a default judgment should be set aside under Rule 60(b).

1 Under this disjunctively framed standard, "a finding that any one of these factors is true is 2 sufficient reason for the district court to refuse to set aside the default." *Mesle*, 615 F.3d at 1091; 3 *Brandt v. Am. Bankers Ins. Co.*, 653 F.3d 1108, 1111 (9th Cir. 2011).

However, a court may within 4 its discretion grant relief from default notwithstanding a finding that one of the "good cause" factors 5 to be true. See, e.g., *Brandt*, 653 F.3d at 1112 ("A district court may exercise its discretion to deny 6 relief to a defaulting defendant based solely upon a finding of defendant's culpability, but need 7 not.") (emphasis added). "The court's discretion is especially broad where... it is entry of default 8 that is being set aside, rather than a default judgment." *O'Connor v. State of Nev.*, 27 F.3d 357, 364 9 (9th Cir.

1994). The factors are more liberally applied with respect to a request to set aside the entry 10 of default, because "there is no interest in the finality of the judgment with which to contend." 11

Mesle, 615 F.3d at 1091 n.1. 12 Additionally, the Ninth Circuit has emphasized that resolution of a motion to set aside the 13 entry of default is necessarily informed by the well-established policies favoring resolution of cases 14 on their merits and generally disfavoring default judgments.

See Mesle, 615 F.3d at 1091 15 (“[J]udgment by default is a drastic step appropriate only in extreme circumstances; a case should, 16 whenever possible, be decided on the merits”) (citations and quotation marks omitted); *Westchester 17 Fire Ins. Co. v. Mendez*, 585 F.3d 1183, 1189 (9th Cir. 2009) (“As a general rule, default judgments 18 are disfavored; cases should be decided upon their merits whenever reasonably possible”).

19 Moreover, the Ninth Circuit’s “rules for determining when a default should be set aside are 20 solicitous towards movants, especially those whose actions leading to the default were taken without 21 the benefit of legal representation.” Mesle, 615 F.3d at 1089. 22 With the above principles in mind, the Court proceeds to consider the Hospital’s request to 23 set aside the Clerk’s entry of default.

24 B. Analysis 25 1. Culpable Conduct 26 “A defendant’s conduct is culpable if he has received actual or constructive notice of the 27 filing of the action and intentionally failed to answer.” *TCI Group Life Ins. Plan v. Knoebber*, 244 28 F.3d 691, 697 (9th Cir. 2001) (emphasis in original), overruled on other grounds by *Egelhoff v. 1 Egelhoff ex rel. Breiner*, 532 U.S. 141 (2001).

The Ninth Circuit defined “intentional” as “willful, 2 deliberate, or evidence of bad faith.” *Id.* (citing *Am. Alliance Ins. Co., Ltd. v. Eagle Ins. Co.*, 92 3 F.3d 57, 61 (2d Cir. 1996)). “[T]o treat a failure to answer as culpable, the movant must have acted 4 with bad faith, such as an intention to take advantage of the opposing party, interfere with judicial 5 decision making, or otherwise manipulate the legal process.” Mesle, 615 F.3d at 1092 (quoting *TCI 6 Group*, 244 F.3d at 697).

Typically, a court finds a movant’s conduct culpable for the purposes of 7 the [good cause] factors when the movant offers “no explanation... inconsistent with a devious, 8 deliberate, willful, or bad faith failure to respond.” *Id.* 9 However, another line of cases, on which Plaintiff relies, suggests that a movant’s conduct 10 is culpable without a showing of intentionality (Doc.

18 at 11–12). See *Franchise Holding II*, 375 11 F.3d at 926 (finding culpability simply when the movant has “received actual or constructive notice 12 of the filing of the action and failed to answer”); see also Mesle, 615 F.3d at 1093.

To reconcile the 13 seemingly inconsistent holdings of *Franchise Holding II* and *TCI Group*, the Ninth Circuit in Mesle 14 recognized that not requiring intentionality “is not the ordinary standard for Rule 55(c)” and courts 15 have only denied relief when the movant is legally sophisticated. *Id.* The court reasoned that 16 “[w]hen considering a legally sophisticated party’s culpability in a default, an understanding of the 17 consequences of its actions may be assumed, and with it,

intentionality.” *Id.*; see *Direct Mail 18 Specialists, Inc. v. Eclat Computerized Techs., Inc.*, 840 F.2d 685, 690 (9th Cir.

1988) (refusing to vacate default judgment because the defendant was a lawyer who “presumably was well aware of the dangers of ignoring service of process”). Here, Plaintiff argues that the presumption of culpability should apply because the Hospital is legally sophisticated, and Seyfarth Shaw had knowledge of the lawsuit as early as March 17, 2025.

(Doc. 18 at 12–13.) But the Hospital did not retain Seyfarth Shaw in this case until May 19, 2025 (see Doc. 14-1 ¶ 10; Doc. 14-2 ¶ 6)—after default had already been entered—and the Court declines Plaintiff’s invitation to find the existence of an “implied” attorney-client relationship before that date.

Although the Court recognizes its discretion to assume culpability solely based on the Hospital’s failure to answer, it will not do so considering the policy to decide cases on the merits, and instead considers whether the Hospital acted intentionally. See, e.g., *Garner v. Wells Fargo 1 Home Mortg., Inc.*, No. 1:10–CV–266, 2011 WL 2413841, at *3 (D. Idaho June 9, 2011) (favoring the policy to decide cases on the merits while declining to assume Wells Fargo’s culpability based solely on its failure to answer even though Wells Fargo is a legally sophisticated entity).

The Court finds that Hospital did not intentionally fail to respond to the complaint. There is no evidence that the Hospital acted in bad faith with the intention to take advantage of the opposing party, interfere with judicial decision making, or otherwise manipulate the legal process. See *Mesle*, 7615 F.3d at 1092.

The inadvertent calendaring omission and the inability to retain outside counsel until a potential third-party conflict was resolved (see Doc. 14-1 ¶¶ 3, 5–6, 10 and Ex. C) do not constitute actions of bad faith.⁴ See, e.g., *Neev v. Abbott Med. Optics Inc.*, No. SACV 15-01992 JVS(JCGx), 2017 WL 11628868, at *3 (C.D. Cal. Apr. 3, 2017) (“The logistical issues that resulted in the calendaring error – including the acquisition of Shaub and Williams and the transitions amongst the paralegal staff and the attorneys – do not constitute actions of bad faith.”).

Rather, the Hospital’s failure to answer resulted from excusable neglect and not from an attempt to manipulate the legal process or take advantage of Plaintiff (or his counsel, with whom the Hospital’s counsel appear to share a collegial working relationship, see, e.g., Doc. 14-1 Ex B; Doc. 14-2 Ex. A). See *Calleja v. Cannon*, No. CV-15-01120-PHX-NVW, 2015 WL 13574284, at *1 (D.

Ariz. Nov. 25, 2015) (“calendaring error” constitutes “excusable neglect”); *Howard v. City of Ridgecrest*, No. 1:12- 18 CV-01232 AWI, 2012 WL 4862352, at *2 (E.D. Cal. Oct. 11, 2012)

(same). See also *Pioneer Inv. 19 Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 394 (1993) (stating that excusable neglect encompasses the failure to comply with a filing deadline because of negligence).

21 Finally, the Hospital immediately sought agreement from Plaintiff to set aside the default 22 after learning about its entry and filed the instant motion eight court days after it was clear the parties 23 were at an impasse on May 28, 2025.⁵ (See Doc. 14-1 ¶¶ 5–9, 8–9 and Exs. C, E & F; Doc. 14-2 ¶¶ 24–4 The Court rejects Plaintiff's suggestion that "[a]ny potential conflict would have been the same between Deneus-Coley 25 and this case, and such potential conflict would have already been resolved by the time Seyfarth Shaw was retained to represent [the Hospital] in the Deneus-Coley matter." (Doc.

18 at 13.) As set forth in the Hospital's reply briefing, 26 while the conflict involved the same third party as in Deneus-Coley, a "separate conflict waiver" with that party was "required" for the Hospital to engage Seyfarth Shaw in the instant matter. (Doc. 19-1 ¶¶ 4–5.) 27 5 Even were the Court to adopt Plaintiff's version of events (see Doc. 18 at 15), it cannot conclude based on this record that a one-month delay was willful, deliberate or in bad faith.

See *Laurino*, 279 F.3d at 753 (holding that delay caused 28 by the party's efforts to retain new counsel was not culpable conduct, thus reversing district court's denial of motion to 1 8–9 and Ex. B.) "Such diligence is wholly inconsistent with a finding that any delay was willful, 2 deliberate or in bad faith." *Black v. Stafford*, No. CIV. S-10-567 FCD, 2011 WL 3925066, at *3 3 (E.D.

Cal. Sept. 7, 2011) (citing *Laurino v. Syringa Gen. Hosp.*, 279 F.3d 750, 753 (9th Cir. 2002)). 4 See also *J & J Sports Prods., Inc. v. Aranda*, No. 1:12-CV-1508-AWI-BAM, 2013 WL 3773865, at 5 *4 (E.D. Cal. July 17, 2013) ("Defendant's diligence in seeking to set aside the entry of default 6 immediately after appearing in court reveals no disrespect for the courts."); *Williams v. Dawley*, No. 7 08–799 FCD-EFB, 2008 WL 3540360 *2 (E.D.

Cal. Aug.12, 2008) (holding parties' diligence in 8 working to set aside default supported a finding of good cause). 9 Because the record is devoid of any evidence that the Hospital acted culpably, the first factor 10 weighs in favor of finding good cause to set aside the entry of default. 11 2. Meritorious Defense 12 Regarding whether a defaulting defendant has a meritorious defense, the Ninth Circuit Court 13 of Appeals has stated that, at least in the context of relief from the entry of a default judgment, the 14 defaulting defendant must "present the district court with specific facts that would constitute a 15 defense." *Franchise Holding II*, 375 F.3d at 926.

This burden is not "extraordinarily heavy." *Mesle*, 16 615 F.3d at 1094 (citing *TCI Group*, 244 F.3d at 700). In fact, it is "minimal." *Id.* "All that is 17 necessary to satisfy the 'meritorious defense' requirement is to allege sufficient facts that, if true, 18 would constitute a defense: 'the

question whether the factual allegation [i]s true' is not to be 19 determined by the court when it decides the motion to set aside the default.

Rather, that question 20 'would be the subject of the later litigation.'" Id. (citing TCI Group, 244 F.3d at 700). 21 Here, the Hospital contends it can establish potential defenses to this action, including that 22 Plaintiff's claims are subject to an arbitration agreement with a third party that the Hospital may 23 enforce as a third-party beneficiary under the doctrine of equitable estoppel.

(See Doc. 14 at 7–8.) 24 Attached to the Hospital's motion is a copy of the purported arbitration agreement. (Doc 14-1 ¶ 11 25 and Ex. G.) In response, Plaintiff asserts that the Hospital's defense is "conclusory" because it fails 26 27 though reasons for failing to timely respond were weak, the delay was not the result of "deviousness or willfulness" and thus, culpable conduct did not cause delay); Falk v. Allen, 739 F.2d 461, 464 (9th Cir.

1984) (declining to find five- 28 month delay in moving to set aside default culpable in light of the defendant's difficulty in obtaining assistance from 1 to "show how [the Hospital] would be allowed to rely on that purported third-party agreement."6 2 (Doc. 18 at 20–21.) This argument, however, goes to the merits of the defense, which is best 3 resolved through litigation.

See Mendoza v. Wight Vineyard Mgmt., 783 F.2d 941, 945–46 (9th Cir. 4 1986) (noting any doubt "should be resolved in favor of the motion to set aside the [default] so that 5 cases may be decided on their merits"). The Court finds that the Hospital has presented the Court 6 "with specific facts that would constitute a defense" in this case (see Doc. 14 at 7–8; Doc 14-1 ¶ 11 7 and Ex. G) and has therefore met its "minimal" burden under the "meritorious defense" prong.

See 8 Whitmore v. Universal Am. Mortg. Co. LLC, No. CV-14-01299-PHX-DGC, 2014 WL 5431203, at 9 *3 (D. Ariz. Oct. 27, 2014) (finding an allegation of an applicable arbitration agreement sufficient 10 to meet the meritorious defense factor). 11 3. Prejudice 12 "To be prejudicial, the setting aside of a judgment [or clerk's entry of default] must result in 13 greater harm than simply delaying resolution of the case." Mesle, 615 F.3d at 1095.

A delay "must 14 result in tangible harm such as a loss of evidence, increased difficulties of discovery, or greater 15 opportunity for fraud or collusion" for the setting aside of default to be prejudicial to the plaintiff. 16 TCI Group, 244 F.3d at 701.

Here, there is no demonstration of prejudice beyond mere delay. No 17 dates have been set in this case, as the Initial Scheduling Conference is currently set for August 14, 18 2025. (Doc. 9.) 19 Other than conclusory assertions, Plaintiff does not identify any "critical evidence" that 20 would be "likely los[t]." (Doc. 18 at 22.) Plaintiff contends that the Hospital's failure to appear 21 prevents members of the putative class from joining the collective action in order to toll their FLSA 22 claims, but the record belies this contention.

(See, e.g., Doc. 6 (“Notice of Filing Consent to Join 23 Collective Action Pursuant to 29 U.S.C. § 216(b)”).) Moreover, had there been no entry of default, 24 Plaintiff would have had to address this concern in response to any effort by the Hospital to compel 25 arbitration of Plaintiff’s claims. And, as Plaintiff concedes, this claimed prejudice “could be 26 6 Plaintiff also attacks the Hospital’s affirmative defenses as pleaded in its proposed answer (Doc.

18 at 15–19), but 27 there is no requirement that a proposed answer set forth a meritorious defense. *Huerta v. Akima Facilities Mgmt., LLC*, No. 16-CV-00434-KAW, 2017 WL 783686, at *4 (N.D. Cal. Mar. 1, 2017). “More persuasive” are decisions by courts 28 in this Circuit, “which have found the defendant’s burden satisfied by allegations of facts contained in the briefing 1 alleviated through [a] tolling” agreement between the parties (Doc.

18 at 17–18). See, e.g., *Droesch 2 v. Wells Fargo Bank, N.A.*, No. 20-CV-06751-JSC, 2021 WL 2805604, at *1–3 (N.D. Cal. July 6, 3 2021) (directing the parties to “meet and confer regarding whether notice should be sent to the 4 remainder of the class in the interim or whether a tolling agreement can be reached so that the 5 appropriate class members are not prejudiced by any delay in notice” while the Court adjudicates 6 whether “employees signed valid and enforceable arbitration agreements.”).

An entry of default 7 acts as a “windfall,” and setting aside that default “merely restores the parties to an even footing in 8 the litigation.” *TCI Group*, 244 F.3d at 701. On this record, the Court cannot conclude that setting 9 aside entry of default would result in tangible prejudice to Plaintiff. 10 III. CONCLUSION AND ORDER 11 In sum, the Hospital’s lack of culpability, its articulation of facts that would constitute a 12 defense to Plaintiff’s claims, and the lack of prejudice to Plaintiff all weigh in favor of setting aside 13 the entry of default.

Based on those factors and the general preference for resolving cases on their 14 merits, the Court concludes that good cause exists to set aside the Clerk’s entry of default against 15 the Hospital. 16 Accordingly, it is HEREBY ORDERED that: 17 1.

The hearing set for July 16, 2025, is hereby VACATED; 18 2. Defendant Fresno Community Hospital and Medical Center’s (erroneously named as 19 Community Regional Medical Center f/k/a Fresno Community Hospital and Medical 20 Center) motion to set aside the Clerk’s entry of default (Doc. 14) is GRANTED and 21 the entry of default against it (Doc. 8) is SET ASIDE; and 22 3.

Defendant’s answer lodged on June 9, 2025 (Doc. 13) is deemed FILED as of the 23 date of this Order. 24 IT IS SO ORDERED. 25 26 Dated: July 9, 2025 /s/ Sheila K. Oberto. UNITED STATES MAGISTRATE JUDGE 27 28

