

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Carbon Autonomous Robotic Systems Inc. v. Laudando & Associates
LLC

Carbon Autonomous Robotic Systems · No. 2:24-cv-03012-DAD-JDP · Decided October 23, 2025

SUMMARY

The United States District Court for the Eastern District of California granted plaintiff’s motion to strike the corporate defendant’s answer and directed the Clerk to enter default under Federal Rule of Civil Procedure 55(a). The court also dismissed the defendant’s counterclaims because the limited liability company failed to retain counsel and could not appear pro se. The order expressly did not enter default judgment under Rule 55(b).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 23, 2025
DOCKET	2:24-cv-03012-DAD-JDP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to strike the corporate defendant's answer, dismiss its counterclaims, and direct the clerk to enter default under Federal Rule of Civil Procedure 55(a).
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- default
- pleadings
- motions to dismiss
- civil procedure
- limited liability companies

PRACTICE AREAS

- civil procedure
- commercial litigation
- corporate law

QUESTIONS PRESENTED

1. Whether a corporate defendant's answer may be stricken when the entity persistently fails to participate in the action after losing counsel.
2. Whether the clerk may be directed to enter default under Federal Rule of Civil Procedure 55(a) after the answer is stricken.
3. Whether the corporate defendant's counterclaims should be dismissed under Federal Rule of Civil Procedure 41(b) because the entity could not proceed without counsel and failed to comply with applicable rules.

HOLDINGS

1. A corporate defendant's answer may be stricken when the entity persistently fails to participate in the action, including by failing to retain counsel after its attorneys withdraw and failing to appear through counsel.
2. When a party has filed an answer and thereafter fails to plead or otherwise defend, the court may strike the answer and direct entry of default under Rule 55(a); default judgment is a separate later proceeding under Rule 55(b).
3. A district court may dismiss a counterclaim under Rule 41(b) when the corporate counterclaimant cannot proceed without counsel and fails to comply with applicable rules or otherwise prosecute the counterclaim.

KEY QUOTATIONS

“Pursuant to Local Rule 183(a), “[a] corporation or other entity may appear only by attorney.”” (at 1)

“However, if a party files an answer and thereafter fails to plead or otherwise defend, “the court cannot enter default until the answer is stricken.”” (at 2)

“A defendant’s answer may be stricken when the defendant persistently fails to participate in the action.” (at 2)

“Under Rule 41(b), a district court may dismiss an action, including a counterclaim, based upon the failure to prosecute, the failure to obey a court order, and the failure to comply with the Rules.” (at 3)

FACTUAL BACKGROUND

Laudando & Associates LLC, a corporate defendant and cross-claimant, filed an answer and asserted counterclaims. Its attorneys were permitted to withdraw, but the LLC did not retain replacement counsel and therefore could not represent itself under Local Rule 183(a). The LLC also failed to appear through counsel at the hearing on plaintiff's motion.

PROCEDURAL HISTORY

Defense counsel moved to withdraw and were later permitted to withdraw after compliance with a court order. After counsel were terminated, the corporate defendant failed to retain replacement counsel, failed to appear through counsel at the hearing, and could not proceed pro se under Eastern District of California Local Rule 183(a). Plaintiff's earlier request for entry of default was denied because the defendant had filed an answer. The

court granted plaintiff's renewed motion, struck the answer, dismissed the counterclaims, and directed the clerk to enter default.

DISPOSITION

other

CASES CITED

- Osgood v. Main Streat Mktg., LLC, No. 3:16-cv-2415-GPC-BGS, 2017 WL 3194460, at *2 (S.D. Cal. July 27, 2017)
- Staniforth v. Total Wealth Mgmt., Inc., No. 3:14-cv-01899-GPC-JLB, 2022 WL 774733, at *2 (S.D. Cal. Feb. 17, 2022)
- Ortiz v. Lucero Ag Servs., Inc., No. 1:23-cv-01319-JLT-EPG, 2025 WL 892988, at *1–2
- Crandall v. Semillon Inc., No. 15-cv-01257-GPC-NLS, 2016 WL 4479397, at *3 (S.D. Cal. Aug. 25, 2016)

OPINION

CARBON AUTONOMOUS ROBOTIC SYSTEMS INC. v. LAUDANDO & ASSOCIATES LLC
PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 CARBON AUTONOMOUS ROBOTIC No. 2:24-cv-03012-DAD-JDP
SYSTEMS INC.,

12 Plaintiff,

13 ORDER GRANTING PLAINTIFF’S MOTION

v. TO STRIKE DEFENDANT AND COUNTER

14 CLAIMANT LAUDANDO & ASSOCIATES

LAUDANDO & ASSOCIATES LLC, LLC’S ANSWER, DISMISSING

15 DEFENDANT’S COUNTER-CLAIMS, AND

Defendant. DIRECTING THE CLERK OF THE COURT

16 TO ENTER DEFAULT AGAINST

DEFENDANT LAUDANDO & ASSOCIATES

17 LLC PURSUANT TO RULE 55(a) OF THE

FEDERAL RULES OF CIVIL PROCEDURE

18 (Doc. No. 95) 19 20

LAUDANDO & ASSOCIATES LLC,

21 Counter Claimant, 22 v. 23

CARBON AUTONOMOUS ROBOTIC

SYSTEMS INC.,

24 Counter Defendant. 25 26 This matter came before the court on October 21, 2025 for hearing
on plaintiff's motion to 27 strike defendant's answer and for clerk's entry of default pursuant to
Federal Rule of Civil 28

1 Procedure 55(a) against defendant Laudando & Associates LLC. (Doc. No. 95.) Attorney

2 Richard Crudo appeared for plaintiff and Mr. Christopher Laudando appeared on his own behalf

3 while acknowledging that he was not permitted to appear on behalf of defendant Laudando & 4
Associates LLC. For the reasons explained below, the court will grant the pending motion.

5 BACKGROUND

6 On April 9, 2025, counsel for defendant filed a motion to withdraw as attorneys of record 7 for
defendant. (Doc. No. 52.) Subsequently, on April 23, 2025, defendant filed an answer to 8
plaintiff's first amended complaint ("FAC"). (Doc. No. 60.) On May 5, 2025, the court denied 9
defense counsels' motion to withdraw as attorneys of record without prejudice to the oral renewal
10 of that motion upon the hearing of plaintiff's motion for preliminary injunction (Doc. No. 49).
11 (Doc. No. 64.) On June 13, 2025, the court granted plaintiff's motion for preliminary injunction
12 and defense counsels' renewed motion to withdraw as attorneys of record, following
compliance 13 with the court's order. (Doc. No. 74.) On June 16, 2025, defendant's counsel were
terminated 14 from this action. (Doc. No. 77.) Pursuant to Local Rule 183(a), "[a] corporation or
other entity 15 may appear only by attorney." L.R. 183. Since June 13, 2025, defendant Laudando
& Associates 16 LLC has been unable to retain counsel to represent itself. 17 On July 2, 2025,
plaintiff filed a motion for clerk's entry of default which was improperly 18 noticed before the
undersigned. (Doc. Nos. 84, 85.) On July 7, 2025, plaintiff filed a request for 19 entry of default
against defendant. (Doc. No. 86.) On July 8, 2025, the clerk denied that request 20 for entry of
default because defendant had previously filed an answer to both the original 21 complaint and the
operative FAC. (Doc. Nos. 21, 60, 87.) On July 9, 2025, the assigned 22 magistrate judge set
plaintiff's pending motion for clerk's entry of default (Doc. No. 84) for 23 hearing on August 21,
2025 by Zoom. (Doc. No. 88.) At that hearing, the assigned magistrate 24 judge observed that
because default had not been entered, he could not recommend the granting 25 of the motion if
construed as one seeking default judgment. (Doc. No. 93 at 6.) The magistrate 26 judge also noted
that the operative answer would need to be stricken and suggested to plaintiff 27 that they file "a
request to strike and also move at the same time for defendant's default[.]" (Id. at 28 //// 1 4.) On
August 29, 2025, the magistrate judge denied plaintiff's motion, construed as one seeking 2 entry
of default judgment, without prejudice. (Doc. No. 91.) 3 On September 3, 2025, plaintiff filed a
motion to strike defendant's answer and seeking an 4 order directing the clerk to enter default
against defendant. (Doc. No. 95.)

5 DISCUSSION

6 Federal Rule of Civil Procedure 55(a) provides that "[w]hen a party against whom a 7 judgment
for affirmative relief is sought has failed to plead or otherwise defend, and that failure is 8 shown

by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). 9 However, if a party files an answer and thereafter fails to plead or otherwise defend, "the court 10 cannot enter default until the answer is stricken." *Osgood v. Main Street Mktg., LLC*, No. 3:16- 11 cv-2415-GPC-BGS, 2017 WL 3194460, at *2 (S.D. Cal. July 27, 2017). "A defendant's answer 12 may be stricken when the defendant persistently fails to participate in the action." *Staniforth v. 13 Total Wealth Mgmt., Inc.*, No. 3:14-cv-01899-GPC-JLB, 2022 WL 774733, at *2 (S.D. Cal. Feb. 14 17, 2022). 15 Here, as described above, defendant's counsel were permitted to withdraw as counsel of 16 record for defendant Laudando & Associates LLC following compliance with the court's order 17 and, on June 16, 2025, defendant's counsel were terminated from this action. (Doc. Nos. 74, 77.) 18 Defendant Laudando & Associates LLC has not subsequently been able to retain counsel and, 19 under Local Rule 183, is not permitted to represent itself. Moreover, no counsel appeared on 20 behalf of defendant Laudando & Associates LLC at the October 21, 2025 hearing on the pending 21 motion. (Doc. No. 98.) Given these circumstances, the court finds that defendant Laudando & 22 Associates LLC has effectively failed to defend against plaintiff's claims in this litigation and 23 failed to participate with regard to its crossclaims as well. Accordingly, the court will grant 24 plaintiff's motion to strike defendant's operative answer and to direct the Clerk of the Court to 25 enter default against defendant. See *Staniforth v. Total Wealth Mgmt., Inc.*, No. 14-cv-01899- 26 GPC-JLB, 2022 WL 774733, at *2 (S.D. Cal. Feb. 17, 2022) (granting the motion to strike 27 answer and enter default against corporate defendant that failed to retain substitute counsel and 28 failed to appear for subsequent hearings and conferences); see also *Ortiz v. Lucero Ag Servs., 1 Inc.*, No. 1:23-cv-01319-JLT-EPG, 2025 WL 892988, at *1-2 ("In cases where a corporate 2 defendant has failed to obtain counsel and defend the case, courts have used their inherent 3 authority to strike the defendant's answer, direct the entry of a default under Federal Rule of Civil

4 Procedure 55(a), and then permit the plaintiff to move for a default judgment."), report and 5 recommendation adopted, 2025 WL 1167421 (E.D. Cal. Apr. 22, 2025).¹ 6 Plaintiff has also moved to dismiss defendant's counter-claims asserted in its original 7 answer. (Doc. Nos. 21, 95-1 at 10.) "Under Rule 41(b), a district court may dismiss an action, 8 including a counterclaim, based upon the failure to prosecute, the failure to obey a court order, 9 and the failure to comply with the Rules." *Crandall v. Semillon Inc.*, No. 15-cv-01257-GPC- 10 NLS, 2016 WL 4479397, at *3 (S.D. Cal. Aug. 25, 2016) (citing Fed. R. Civ. P. 41(b)). 11 Accordingly, because defendant Laudando & Associates LLC has not retained counsel and cannot 12 proceed in this action pro se in compliance with the applicable rules, the court finds that it is 13 appropriate to dismiss defendant's counterclaims asserted in its original answer. *Id.* (collecting 14 cases and dismissing counterclaim due to failure of corporate defendant to obtain new counsel).

15 CONCLUSION

16 For the reasons above, 17 1. Plaintiff's motion to strike defendant's answer and for clerk's entry of default 18 pursuant to Rule 55(a) against defendant (Doc. No. 95) is GRANTED; 19 2.

Defendant and cross-claimant's answer (Doc. No. 60) is STRICKEN; 20 3. The Clerk of the Court is directed to update the docket to reflect that defendant and 21 cross-claimant's answer (Doc. No. 60) has been stricken; 22 ///// 23 1 In the undersigned's view, the appropriate procedure to obtain entry of default pursuant to 24 Federal Rule of Civil Procedure 55(a) in these circumstances is to separately request an entry of default from the Clerk of the Court after obtaining an order striking the operative answer. See 25 Fed. R. Civ. P. 55(a). Nevertheless, for the sake of efficiency, the court will direct the Clerk of the Court in this instance to enter default pursuant to Rule 55(a). In so doing, the court is not at 26 this time ordering entry of default judgment pursuant to Rule 55(b). Fed. R. Civ. P. 55(b)(2) ("In 27 all other cases, the party must apply to the court for default judgment."). Under the Local Rules for the Eastern District of California, a party moving for entry of default judgment under Rule 28 55(b) must notice that motion before the assigned magistrate judge. L.R. 302(c)(19). 1 4. Defendant and cross-claimant's cross-claims asserted in its original answer (Doc.

2 No. 21 at 18-19) are DISMISSED; and

3 5. The Clerk of the Court is directed to enter default against defendant and cross- 4 claimant pursuant to Rule 55(a). 5 IT IS SO ORDERED. ° | Dated: _ October 22, 2025 Dab A. 2, sxe

7 DALE A. DROZD

3 UNITED STATES DISTRICT JUDGE

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28