

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Ana M. Hanson et al. v. Spectrum Construction Group, Inc. et al.

No. 8:22-cv-01994-FWS-MAR, United States District Court for the Central District of California (March 2, 2023)

SUMMARY

The United States District Court for the Central District of California continued the hearing on Plaintiffs’ motion for default judgment against Spectrum Construction Group, Inc. after Plaintiffs failed to appear. The court ordered Plaintiffs and their counsel to submit declarations explaining the nonappearance, appear at a show-cause hearing, serve the order on a defendant, and show cause why sanctions should not be imposed.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fred W. Slaughter
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 2, 2023
DOCKET	8:22-cv-01994-FWS-MAR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for default judgment against Bisher Aljazzar and Spectrum Construction Group, Inc. The court addressed plaintiffs’ failure to appear at the scheduled hearing and continued the default-judgment hearing while ordering plaintiffs and their counsel to show cause why sanctions should not be imposed.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district-court order

TOPICS

- default judgment
- sanctions
- civil procedure

PRACTICE AREAS

- civil procedure
- construction law
- commercial litigation

QUESTIONS PRESENTED

1. Whether the pending motion for default judgment should be continued after plaintiffs failed to appear at the scheduled hearing.
2. Whether plaintiffs and their counsel should be ordered to show cause why sanctions, including monetary sanctions, should not be imposed for failing to appear.

HOLDINGS

1. Because the motion for default judgment remained pending as to Spectrum Construction Group, Inc., the court continued the hearing for two weeks, until March 16, 2023, at 11:00 a.m.
2. The court ordered plaintiffs and each of their counsel to submit declarations and appear to show cause why sanctions should not be imposed for failing to appear at the scheduled hearing, warning that noncompliance with the order could result in monetary sanctions and/or dismissal.

KEY QUOTATIONS

“Based on the record, and the fact that the Motion for Default Judgment is still pending as to Defendant Spectrum Construction Group, Inc., the court CONTINUES this hearing for two weeks, until March 16, 2023, at 11:00 a.m. in Courtroom 10D.” (2)

“In addition, Plaintiffs are ORDERED TO SHOW CAUSE in writing, on or before March 9, 2023, at 12:00 p.m., why sanctions, including monetary sanctions, should not be imposed for failing to appear at the scheduled court hearing on March 2, 2023, at 10:00 a.m., in Courtroom 10D.” (2)

“Failure to adequately comply with the court’s orders described above, including compliance with orders requiring individual declarations in response to the Order to Show Cause, the orders to appear at the hearings set for March 16, 2023, or the order to serve this order on Defendant Bisher Aljazzar, may result in sanctions being imposed.” (2)

FACTUAL BACKGROUND

Plaintiffs noticed a motion for default judgment against Bisher Aljazzar and Spectrum Construction Group, Inc. for a March 2, 2023 hearing. Neither plaintiffs nor Aljazzar appeared, plaintiffs had not requested remote appearance or a continuance, and the courtroom deputy was unable to reach plaintiffs’ counsel using the telephone number listed on the docket. Aljazzar’s default had been set aside, but default remained entered against Spectrum Construction Group, Inc.

PROCEDURAL HISTORY

Plaintiffs filed a motion for default judgment on January 24, 2023. Defendant Bisher Aljazzar later moved to set aside his default, and the court granted that motion on February 24, 2023; default remained entered against Spectrum Construction Group, Inc. Neither plaintiffs nor Aljazzar appeared at the March 2, 2023 hearing, and the court continued the hearing to March 16, 2023, while issuing an order to show cause directed to plaintiffs and their counsel.

DISPOSITION

CASES CITED

- Fink v. Gomez, 239 F.3d 989, 991 (9th Cir. 2001)
- Wong v. Regents of the University of California, 410 F.3d 1052, 1060 (9th Cir. 2005)
- Fink v. Gomez, 239 F.3d 989, 994 (9th Cir. 2001)

OPINION

Case 8:22-cv-01994-FWS-MAR Document 25 Filed 03/02/23 Page 1 of 3 Page ID #:142

UNITED

STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No.: 8:22-cv-01994-FWS Date: March 2, 2023 Title: Ana M. Hanson et al. v. Spectrum Construction Group, Inc. et al. Present: HONORABLE FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE Melissa H. Kunig N/A Deputy Clerk Court Reporter Attorneys Present for Plaintiffs: Attorneys Present for Defendants: Not Present Not Present PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE Plaintiffs Ana M. Hanson, on behalf of Southern California Painting and Drywall Industries Health and Welfare Fund and Southern California Painting and Decorating Labor Management Cooperation Committee Trust Fund, and Terry Nelson, on behalf of International Union of Painters and Allied Trade Industry Pension Fund, Finishing Trades Institute and Painters, and Allied Trades Labor Management Cooperation Initiative (collectively, “Plaintiffs”), noticed a Motion for Default Judgment for hearing on March 2, 2023 at 10:00 a.m.

(Dkt. 19.) On March 2, 2023, the courtroom deputy called this matter for hearing. At 11:19 a.m., the court noted that neither Plaintiffs nor Defendant Bisher Aljazzar appeared for the hearing. The courtroom deputy indicated on the record that Plaintiffs had not checked in, or requested to appear telephonically or by Zoom.

In addition, the courtroom deputy stated she attempted to contact Plaintiffs’ counsel, Michele S. Ancheta and Anthony R. Segall, but was unable to reach counsel using the telephone number listed on the docket. The court then summarized the docket activity as follows.

On January 24, 2023, Plaintiffs moved for default judgment against Defendants Bisher Aljazzar and Spectrum Construction Group, Inc. (Dkt. 19.) The motion for default judgment was set for hearing on today’s date, March 2, 2023, at 10:00 a.m. All hearings before the court have been conducted

STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No.: 8:22-cv-01994-FWS Date: March 2, 2023 Title: Ana M. Hanson et al. v. Spectrum Construction Group, Inc. et al. in person since February 1, 2023.¹ On February 15, 2023, Defendant Bisher Aljazzar filed a motion to set aside his default.

(Dkt. 22.) The court granted this motion on February 24, 2023. (Dkt. 23.) However, the default remains entered as to Defendant Spectrum Construction Group, Inc. (See Dkt. 15.) Finally, the docket did not contain any requests to continue the March 2, 2023, hearing, appear remotely, or vacate the scheduled hearing. (See generally Dkt.) Based on the record, and the fact that the Motion for Default Judgment is still pending as to Defendant Spectrum Construction Group, Inc., the court CONTINUES this hearing for two weeks, until March 16, 2023, at 11:00 a.m. in Courtroom 10D.

In addition, Plaintiffs are ORDERED TO SHOW CAUSE in writing, on or before March 9, 2023, at 12:00 p.m., why sanctions, including monetary sanctions, should not be imposed for failing to appear at the scheduled court hearing on March 2, 2023, at 10:00 a.m., in Courtroom 10D.

The written response to the Order to Show Cause must be accomplished by way of declaration, not solely by a memorandum of points and authorities. Both counsels of record, Michelle S. Ancheta and Anthony R. Segall, are individually required to file their own declarations explaining why there was no appearance at the scheduled court hearing on March 2, 2023, at 10:00 a.m., and why sanctions should not be imposed.

The court also ORDERS Plaintiffs to appear at a hearing on the Order to Show Cause on March 16, 2023, at 11:00 a.m. in Courtroom 10D. Finally, the court ORDERS Plaintiffs to serve this Order and the March 2, 2023, Minute Order Regarding the Hearing on the Motion for Default Judgment on Defendant Bisher Aljazzar on or before March 10, 2023. Failure to adequately comply with the court's orders described above, including compliance with orders requiring individual declarations in response to the Order to Show Cause, the orders to appear at the hearings set for March 16, 2023, or the order to serve this order on Defendant Bisher Aljazzar, may result in sanctions being imposed.

These sanctions may include monetary sanctions and/or dismissing the action. See *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001) (“Three primary sources of authority enable courts to sanction parties or their lawyers for improper conduct: (1) Federal Rule of Civil Procedure 11, which applies to 1 See <https://www.cacd.uscourts.gov/honorable-fred-w-slaughter>.”)

STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No.: 8:22-cv-01994-FWS Date: March 2, 2023 Title: Ana M. Hanson et al. v. Spectrum Construction Group, Inc. et al. signed writings filed with the court, (2) 28 U.S.C. § 1927, which is aimed at penalizing conduct that unreasonably and vexatiously multiplies the proceedings, and (3) the court’s inherent power.”); Wong v. Regents of Univ. of Cal., 410 F.3d 1052, 1060 (9th Cir.

2005) (“Parties must understand that they will pay a price for failure to comply strictly with scheduling and other orders, and that failure to do so may properly support severe sanctions and exclusions of evidence.”); Fink, 239 F.3d at 994 (“[S]anctions are available if the court specifically finds bad faith or conduct tantamount to bad faith. Sanctions are available for a variety of types of willful actions, including recklessness when combined with an additional factor such as frivolousness, harassment, or an improper purpose.”); L. R. 83-7 (“The violation of or failure to conform to any of these Local Rules may subject the offending party or counsel to: (a) monetary sanctions, if the Court finds that the conduct was willful, grossly negligent, or reckless; (b) the imposition of costs and attorneys’ fees to opposing counsel, if the Court finds that the conduct rises to the level of bad faith and/or a willful disobedience of a court order; and/or (c) for any of the conduct specified in (a) and (b) above, such other sanctions as the Court may deem appropriate under the circumstances.”).

IT IS SO ORDERED. Initials of Deputy Clerk: mku

CIVIL MINUTES – GENERAL 3