UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

# Patricia Ammerman and Harris S. Ammerman v. David Lloyd Fisher, et al.

Ammerman · No. 2:24-cv-00790-JNP-DAO · Decided March 5, 2026

## SUMMARY

The United States District Court for the District of Utah overruled the plaintiffs' objections and adopted a magistrate judge's report and recommendation denying their motion for default judgment. The court concluded that entering judgment against defaulting defendants before adjudicating claims against non-defaulting defendants could create inconsistent liability determinations and damages awards. The court also found that a non-defaulting defendant's defense concerning the alleged fraudulent scheme could apply equally to the defaulting defendants.

## CASE DETAILS

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| COURT | United States District Court for the District of Utah |
| WRITING FOR THE COURT | Jill N. Parrish |
| JURISDICTION | United States District Court for the District of Utah |
| DECIDED | March 5, 2026 |
| DOCKET | 2:24-cv-00790-JNP-DAO |
| DISPOSITION | other |
| PROCEDURAL POSTURE | Plaintiffs objected under Federal Rule of Civil Procedure 72(b)(3) to a magistrate judge's report and recommendation recommending denial of their motion for default judgment against several defendants. The district court conducted a de novo review, overruled the objections, adopted the report and recommendation, and denied the motion. |
| STANDARD OF REVIEW | The court made a de novo determination of the portions of the report and recommendation to which plaintiffs objected under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3). Whether to enter default judgment under Rule 55(b)(2) is committed to the court's sound discretion. |
| PRECEDENTIAL VALUE | Unknown; district court memorandum decision and order with no reporter citation. |

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| PARTIES | Patricia Ammerman, Harris S. Ammerman v. David Lloyd Fisher, Andre Ester, Darrell Walter Rideaux, Fisher Law Group PLLC, EFL LLC, Thomas Matthew Nykamp, Nola Conrad, LLC, Global Business Finance Corporation, Craig Peterson |

## TOPICS

default judgment · default · civil procedure · commercial litigation · damages

## PRACTICE AREAS

civil procedure · commercial litigation · remedies

## QUESTIONS PRESENTED

1. Whether the district court should enter default judgment against some defendants while claims arising from the same alleged scheme remained pending against nondefaulting defendants.
2. Whether the risk of inconsistent liability determinations and damages awards warranted denying default judgment under Federal Rule of Civil Procedure 55(b)(2).
3. Whether the claims against David Lloyd Fisher, including professional-duty claims, could be resolved by default judgment notwithstanding their connection to the same alleged fraudulent scheme.

## HOLDINGS

1. A court should generally refrain from entering default judgment against one of several defendants alleged to be jointly or jointly and severally liable until the claims against all defendants have been adjudicated or all defendants have defaulted, when entering judgment would risk inconsistent liability determinations or damages awards.
2. Default judgment may properly be withheld when a nondefaulting defendant raises a defense closely related to the liability of the defaulting defendants, because a later adjudication of that defense could make a default judgment factually inconsistent or preclude recovery against the defaulting defendants.
3. The motion for default judgment was denied as premature.

## KEY QUOTATIONS

> *"[W]hen one of several defendants who is alleged to be jointly liable defaults, judgment should not be entered against him until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted."* (3)

> *"This rule is designed to "avoid[] inconsistent liability determinations among joint tortfeasors.""* (3)

> *"Based on this risk of factually inconsistent judgments—where the facts ultimately proved by non-defaulting defendants may preclude a finding that defaulting defendants are liable—the court refrains from entering defaulting judgment, regardless of whether Hunt and Frow directly apply."* (5)

## FACTUAL BACKGROUND

Plaintiffs alleged that they lost more than $1.126 million in an investment-related wire fraud scheme involving fabricated investment opportunities and diversion of investor funds. They asserted thirteen causes of action against multiple defendants and requested damages against the defendants jointly and severally. Several defendants defaulted, but other defendants remained in the case, including Craig Peterson, who filed an answer asserting that the alleged fraudulent scheme was fictitious.

### PROCEDURAL HISTORY

Plaintiffs asserted thirteen causes of action arising from an alleged investment-related wire fraud scheme and sought damages against the defendants jointly and severally. After defaults were entered against several defendants, plaintiffs moved for default judgment. Magistrate Judge Daphne A. Oberg recommended denying the motion because entering judgment before adjudication of claims against nondefaulting defendants could create inconsistent liability determinations and damages awards. The district court adopted that recommendation after de novo review.

### DISPOSITION

other

### CASES CITED

- Olcott v. Delaware Flood Co., 327 F.3d 1115, 1124 (10th Cir.)
- Dennis Garberg & Assocs., Inc. v. Pack-Tech Int'l Corp., 115 F.3d 767, 771 (10th Cir.)
- Hunt v. Inter-Globe Energy, Inc., 770 F.2d 145, 147-48 (10th Cir. 1985)
- Frow v. De La Vega, 82 U.S. 552, 554-55 (1872)
- Wilcox v. Raintree Inns of Am., Inc., 76 F.3d 394, 1996 WL 48857, at *2-3 (10th Cir. Feb. 2, 1996) (unpublished table opinion)
- Farzetta v. Turner & Newall, Ltd., 797 F.2d 151, 154 (3d Cir. 1986)

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