

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

## Luxx International, LLC, et al. v. Pure Water Technologies, et al.

Luxx International · No. 2:23-cv-00512-MMD-DJA · Decided January 5, 2026

### SUMMARY

The United States District Court for the District of Nevada adopted a magistrate judge’s Report and Recommendation in an action involving trademark and related claims. The court dismissed Luxx International’s claims without prejudice because the corporation failed to obtain counsel and entered default judgment in favor of Michael and Adam Kaplan on their counterclaims against Luxx. The court also denied the defendants’ amended motions as moot and directed the Kaplans to submit a proposed default-judgment order.

### CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                                       |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the District of Nevada                                                                                                                                                                                                                                               |
| JURISDICTION       | United States District Court for the District of Nevada                                                                                                                                                                                                                                               |
| DECIDED            | January 5, 2026                                                                                                                                                                                                                                                                                       |
| DOCKET             | 2:23-cv-00512-MMD-DJA                                                                                                                                                                                                                                                                                 |
| DISPOSITION        | other                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE | The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal without prejudice of Luxx International's claims and entry of default judgment for Michael and Adam Kaplan on their counterclaims against Luxx. No party objected to the Report and Recommendation. |
| STANDARD OF REVIEW | Clear-error review of the magistrate judge's findings and recommendations because no party filed objections; de novo review was therefore unnecessary.                                                                                                                                                |
| PRECEDENTIAL VALUE | unpublished district court order                                                                                                                                                                                                                                                                      |

### TOPICS

[default judgment](#) [default](#) [sanctions](#) [civil procedure](#)

### PRACTICE AREAS

[civil procedure](#) [intellectual property](#) [trademark infringement](#) [commercial litigation](#)

## QUESTIONS PRESENTED

1. Whether the district court should review the magistrate judge's Report and Recommendation de novo when no party filed objections.
2. Whether dismissal without prejudice was proper under Federal Rule of Civil Procedure 41(b) and the court's inherent authority because Luxx, a corporation, failed to obtain counsel and comply with a court order.
3. Whether default judgment should be entered against Luxx on Michael and Adam Kaplan's counterclaims because of Luxx's failure to comply with the court's order.

## HOLDINGS

1. When no party objects to a magistrate judge's findings and recommendations, the district court need not conduct de novo review and instead reviews the recommendation for clear error.
2. A corporation that fails to obtain licensed counsel and comply with a court order requiring representation may have its claims dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and the court's inherent authority.
3. Default judgment may be entered against Luxx on Michael and Adam Kaplan's counterclaims as a sanction for Luxx's failure to obtain counsel and comply with the court's order.

## KEY QUOTATIONS

*“De novo review of the magistrate judges’ findings and recommendations is required if, but only if, one or both parties file objections.” (at 1)*

*“It is therefore ordered that Judge Albregts’ Report and Recommendation (ECF No. 128) is accepted and adopted in full.” (at 2)*

*“It is further ordered that Luxx’s claims are dismissed without prejudice.” (at 2)*

*“It is further ordered that Michael Kaplan and Adam Kaplan are entitled to default judgment on the Kaplans’ counterclaims against Luxx.” (at 2)*

## FACTUAL BACKGROUND

Luxx International, LLC and Wayde King sued several defendants for trademark infringement and related claims. Michael and Adam Kaplan filed counterclaims alleging fraudulent misrepresentation against each plaintiff. Luxx was ordered to retain licensed counsel but failed to do so, and its motion for additional time to retain counsel was denied. Because Luxx, a corporation, could not proceed without counsel and failed to comply with the court's order, dismissal and default sanctions were recommended.

## PROCEDURAL HISTORY

Luxx International, LLC and Wayde King brought trademark-infringement and related claims against Pure Water Technologies, Tasty One, LLC, Michael Kaplan, and Adam Kaplan. Michael and Adam Kaplan asserted counterclaims for fraudulent misrepresentation. After Luxx failed to retain counsel as ordered, the magistrate

judge recommended dismissal of Luxx's claims and default judgment on the counterclaims against Luxx. The district court found no clear error, adopted the Report and Recommendation in full, dismissed Luxx's claims without prejudice, entered default judgment in favor of the Kaplans on their counterclaims, and denied the defendants' amended motions as moot.

## DISPOSITION

other

## CASES CITED

- United States v. Reyna-Tapia, 328 F.3d 1114, 1116 (9th Cir. 2003)
- Thompson v. Hous. Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439

## OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 \* \* \* 6 LUXX INTERNATIONAL, LLC, et al., Case No. 2:23-cv-00512-MMD-DJA 7 Plaintiffs, ORDER v. 8 PURE WATER TECHNOLOGIES, et al., 9 Defendants. 10 11 Plaintiffs Luxx International, LLC (“Luxx”) and Wayde King sued Defendants Pure 12 Water Technologies (“PWT”), Tasty One, LLC, Michael Kaplan, and Adam Kaplan for 13 trademark infringement and other related claims.

(ECF No. 1 (“Complaint”).) The Kaplans 14 then filed counterclaims, alleging fraudulent misrepresentation against each Plaintiff. 15 (ECF No. 16 (“Counterclaim”).) Plaintiff Luxx filed a motion<sup>1</sup> to extend time to retain 16 counsel (ECF No. 111), and pro se Plaintiff Wayde King filed a motion<sup>2</sup> to strike (ECF No. 17 118) Defendant PWT’s response to Luxx’s motion to extend time.

Before the Court is the 18 Report and Recommendation (“R&R”) of United States Magistrate Judge Daniel J. 19 Albregts (ECF No. 128), recommending that the Court: (1) dismiss Luxx’s claims without 20 prejudice; and (2) enter default judgment against Luxx and in favor of Michael Kaplan and 21 Adam Kaplan on the Kaplans’ counterclaims against Luxx.<sup>3</sup> (ECF No. 128 at 4.)

To date, 22 no objections to the R&R have been filed. Because there is no objection, and, as further 23 explained below, the Court will adopt the R&R in full. 24 25 1 Defendants responded (ECF No. 112). Plaintiff did not reply. 26 2 Defendants responded (ECF No. 122), and Plaintiffs replied (ECF Nos. 124, 125, 126). 27 3 The Magistrate Judge denied Luxx’s motion to extend time to retain counsel (ECF 28 1 Because there is no objection, the Court need not conduct de novo review and is 2 satisfied that Judge Albregts did not clearly err.

See United States v. Reyna-Tapia, 328 3 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and 4 recommendations is required if, but only if, one or both parties file objections to the 5 findings and recommendations.” (emphasis in original)).

After explaining his rationale for 6 denying the motion to extend time to retain counsel (ECF No. 111), Judge Albregts 7 recommends dismissal of Luxx's claims without prejudice because Luxx cannot proceed 8 in this action without representation, as corporations must be represented by counsel. 9 (ECF No. 128 at 2-3.) Judge Albregts further explains that dismissal is proper under Fed.

Accordingly, because Luxx has been 13 unable or unwilling to comply, Judge Albregts recommends entry of default against Luxx 14 and in favor of Michael Kaplan and Adam Kaplan on the Kaplans' claims against Luxx. 15 (ECF No. 128 at 3.)

Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986). 25 In considering whether to dismiss an action under Rule 41(b) or enter dismissal 26 and default sanctions using inherent authority, courts consider: (1) the public's interest in 27 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their 28 merits; and (5) the availability of less drastic sanctions.

The Kaplans are directed to submit 6 || a proposed order for default judgment within 10 days. 7 It further ordered that Defendants' amended motions (ECF No. 129) are denied as 8 || moot. 9 DATED THIS 5" Day of January 2026. 10 11 12  13 UNITED STATES DISTRICT JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28