

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

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
motion¹ to extend time to retain 16 counsel (ECF No. 111), and pro se Plaintiff Wayde King filed
a motion² 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.³ (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 1Defendants responded
(ECF No. 112). Plaintiff did not reply. 26 2Defendants responded (ECF No. 122), and Plaintiffs
replied (ECF Nos. 124, 125, 126). 27 3The 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.

10 R. Civ. P. 41(b)4 because Luxx failed to comply with the Court’s order to retain counsel, 11 despite having received notice that a corporation may appear in federal court only through 12 licensed counsel.5 (Id. at 3; see also ECF No. 106.)

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.)

Having reviewed the R&R, Judge Albregts did not clearly err. 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 23 4Fed. R. Civ. P. 41(b) permits dismissal of an action for the failure to prosecute or comply with rules or a court order. District courts also have the inherent power to impose 24 sanctions, including default and dismissal where appropriate. See *Thompson v. Hous.*

Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986). 25 5In 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.

See *Carey v. King*, 856 F.2d 1439, 1 It is therefore ordered that Judge Albregts’ Report and Recommendation (ECF No. 2 || 128) is accepted and adopted in full. 3 It is further ordered that Luxx’s claims are dismissed without prejudice. 4 It is further ordered that Michael Kaplan and Adam Kaplan are entitled to default 5 || judgment on the Kaplans’ counterclaims against Luxx.

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