

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Frank Orlando Wells v. Jeffery Macomber, et al.

Wells v. Macomber · No. 2:25-cv-0521 CSK P · Decided November 25, 2025

SUMMARY

The United States District Court for the Eastern District of California denied the plaintiff's motion for reconsideration of a request for default judgment and granted defendants' motion to opt out of the Post-Screening ADR Project. The court lifted the stay, dismissed the complaint because the defendants were sued in their official capacities, and granted leave to amend to assert claims against them in their individual capacities. The court also disregarded the plaintiff's unsigned motion to amend and proposed amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 25, 2025
DOCKET	2:25-cv-0521 CSK P
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner brought a 42 U.S.C. § 1983 action. The court considered plaintiff's motion to reinstate default judgment and strike defendants' waiver of service, defendants' motion to opt out of the Post-Screening Early ADR Project, and plaintiff's later motion to amend.
STANDARD OF REVIEW	Reconsideration was governed by Eastern District of California Local Rule 230(j), requiring the movant to identify new or different facts or circumstances, or other grounds, and explain why they were not previously presented. The court also applied the procedural requirements for entry of default under Federal Rule of Civil Procedure 55(a).
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Frank Orlando Wells v. Jeffery Macomber, et al.

TOPICS

motion for reconsideration default judgment service of process section 1983
eleventh amendment immunity

PRACTICE AREAS

civil procedure prisoner civil rights constitutional law

QUESTIONS PRESENTED

1. Whether plaintiff established grounds under Local Rule 230(j) to reconsider the denial of his motion for default judgment.
2. Whether defendants' waiver of service was improper or dilatory and justified entry of default.
3. Whether defendants could opt out of the Post-Screening Early ADR Project and whether the stay should be lifted.
4. Whether the complaint's official-capacity damages claims were barred by Eleventh Amendment immunity.
5. Whether plaintiff's unsigned motion to amend and proposed amended complaint should be accepted.

HOLDINGS

1. Reconsideration was denied because plaintiff identified no new or different facts or circumstances, or other sufficient grounds, supporting reconsideration under Local Rule 230(j).
2. The waiver-of-service process was not improper, and plaintiff was not entitled to default based on defendants' use of that process.
3. Defendants' motion to opt out of the Post-Screening Early ADR Project was granted, and the stay was lifted.
4. Claims for damages against the state, its agencies, or state officers sued in their official capacities are barred by the Eleventh Amendment absent a waiver of immunity; the complaint was therefore dismissed with leave to amend to name defendants in their individual capacities.
5. The court disregarded the unsigned motion to amend and proposed amended complaint, but plaintiff was not required to refile the motion because the court independently granted leave to amend.

KEY QUOTATIONS

“Crucially, . . . judgment by default is a drastic step appropriate only in extreme circumstances; a case should, whenever possible, be decided on the merits” (at 3)

“The entry of default by the Clerk is required before plaintiff may seek default judgment.” (at 4)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se, sued defendants under 42 U.S.C. § 1983 in their official capacities. After the court ordered service, defendants indicated their intent to waive service and subsequently filed waivers, which extended their time to respond. Plaintiff moved for default judgment without showing that defendants had received the required fourteen days' written notice, and the action was later stayed while defendants sought to opt out of post-screening ADR. Defense counsel advised that official-capacity damages claims were barred by Eleventh Amendment immunity, and plaintiff agreed to amend to assert claims against defendants in their individual capacities.

PROCEDURAL HISTORY

The court screened the complaint and ordered service. Defendants filed a notice of intent to waive service and later filed waivers, while plaintiff moved for default judgment; the court denied that motion without prejudice. Plaintiff sought reconsideration and moved to strike the waivers. The court denied reconsideration, granted defendants' motion to opt out of ADR, lifted the stay, dismissed the complaint with leave to amend, and disregarded plaintiff's unsigned motion to amend and proposed amended complaint.

DISPOSITION

other

CASES CITED

- United States v. Signed Pers. Check No. 730 of Yubran S. Mesle, 615 F.3d 1085, 1091 (9th Cir. 2010)
- Westchester Fire Ins. Co. v. Mendez, 585 F.3d 1183, 1189 (9th Cir. 2009)
- Kentucky v. Graham, 473 U.S. 159, 169 (1985)
- Quern v. Jordan, 440 U.S. 332, 344-45 (1979)
- Hafer v. Melo, 502 U.S. 21, 30 (1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 FRANK ORLANDO WELLS, No. 2:25-cv-0521 CSK P 12 Plaintiff, 13 v.
ORDER 14 JEFFERY MACOMBER, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se with a civil rights complaint under 42 U.S.C. 18 § 1983. Plaintiff's motion to
reinstate default judgment and strike defendants' waiver, and 19 defendants' motion to opt out of
the Post Screening ADR Project are before the Court.

20 As discussed below, plaintiff's motion is denied, and defendants' motion to opt out is 21
granted. In addition, plaintiff's complaint is dismissed with leave to amend. 22 I. BACKGROUND
23 On September 11, 2025, the Court screened plaintiff's complaint and ordered service on 24
defendants. (ECF No. 8.)

On October 6, 2025, defendants filed a notice of intent to waive 25 service. (ECF No. 13.) On
October 8, 2025, plaintiff filed a motion for default judgment. (ECF 26 No. 14.) On October 15,

2025, the Court denied, without prejudice, plaintiff's motion for default judgment. (ECF No. 15.)

On October 31, 2025, defendants filed their waiver of service. (ECF No. 16.)¹ On November 3, 2025, plaintiff filed a document styled, "Objections to Denial of Judgment of Default and Motion to Reinstate Judgment of Default Request, and Motion to Strike Defendants' Waiver of Service as Dilatory and Improper." (ECF No. 17.)⁴ On November 5, 2025, the Court referred this case to the Post Screening ADR Project and stayed the case for 120 days.

(ECF No. 18.) On November 14, 2025, defendants filed a motion⁶ to opt out of the Post Screening ADR Project.⁷ II. GOVERNING AUTHORITIES⁸ Local Rule 230(j) provides that a party seeking reconsideration shall set forth the material⁹ facts and circumstances surrounding the motion for which reconsideration is sought, including:¹⁰ "what new or different facts or circumstances are claimed to exist which did not exist or were not¹¹ shown upon such prior motion, or what other grounds exist for the motion;" and "why the facts or¹² circumstances were not shown at the time of the prior motion." Local Rule 230(j).

¹³ III. PLAINTIFF'S MOTION¹⁴ The Court construes plaintiff's filing as a motion for reconsideration of the Court's¹⁵ October 15, 2025 order. Local Rule 230(j). Although plaintiff objects to the waiver process the¹⁶ Court uses to expedite service of process in cases filed by prisoners held in state custody, plaintiff¹⁷ fails to show that he was entitled to entry of Clerk's default.¹⁸ At the time plaintiff filed his¹⁸ motion for default judgment, defendants had indicated their intent to waive service and avoid the¹⁹ time and expense of requiring the U.S. Marshal to serve them.

(ECF No. 13.) Thus, under Rule 20²⁰ 55(a), defendants were entitled to fourteen days' written notice before plaintiff filed his motion,²¹ and plaintiff was required to provide proof that such notice was given. Fed. R. Civ. P. 55(a).²² Plaintiff provided a proof of service, but it did not reflect that defendants were provided fourteen²³ days' notice before plaintiff filed his motion.

(ECF No. 14 at 3.)²⁴ Further, defendants filed their waiver of service on October 31, 2025, before the Court²⁵ received plaintiff's motion for reconsideration containing plaintiff's objections. The waiver²⁶ ²⁷ ¹ Although plaintiff points out that Rule 4(d)(1) provides that plaintiffs may notify defendants of the commencement of an action and request that the defendant waive service of a summons, Rule 28²⁸ 4(d) does not prohibit the Court from doing so.

¹ provided defendants sixty days from October 6, 2025, to file a responsive pleading. (ECF No. 2² 16.) Because the deadline for filing a responsive pleading had not run by November 14, 2025, the³ date plaintiff filed his motion for reconsideration and objections, the entry of Clerk's default⁴ remained inappropriate. Fed. R. Civ. P. 4(d), 12.

The entry of default by the Clerk is required 5 before plaintiff may seek default judgment. Fed. R. Civ. P. 55(a). Subsequently, the action was 6 stayed on November 5, 2025, which relieved defendants of their obligation to file a responsive 7 pleading until the stay was lifted. (ECF No. 18.)

The Court finds that any alleged delay incurred 8 by the Court's use of the waiver process is not relevant to whether plaintiff was entitled to default 9 judgment. Therefore, plaintiff's objections are overruled. 10 Importantly, it is well-established that policies favor resolution of cases on their merits 11 and generally disfavor default judgments. See *United States v. Signed Pers.*

Check No. 730 of 12 *Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010) ("Crucially,... judgment by default is a 13 drastic step appropriate only in extreme circumstances; a case should, whenever possible, be 14 decided on the merits") (citations and quotation marks omitted); *Westchester Fire Ins. Co. v. 15 Mendez*, 585 F.3d 1183, 1189 (9th Cir. 2009) ("As a general rule, default judgments are 16 disfavored; cases should be decided upon their merits whenever reasonably possible").

17 The Court finds that plaintiff failed to show new or different facts or circumstances 18 support reconsideration of the October 15, 2025 order. Local Rule 230(j). Therefore, plaintiff's 19 motion (ECF No. 17) is denied in its entirety. 20 IV. DEFENDANTS' MOTION 21 On November 14, 2025, both defendants filed a motion to opt out of the referral to the 22 Court's Post-Screening Early ADR ("Alternative Dispute Resolution").

(ECF No. 19.) After 23 reviewing defendants' motion, and good cause appearing, defendants' motion is granted, and the 24 stay of this action (ECF No. 18) is lifted. 25 V. LEAVE TO AMEND 26 In the motion to opt out, defense counsel points out that plaintiff sued both defendants in 27 their official capacity, and when counsel spoke with plaintiff and informed him of their position 28 that they are immune from this action under the Eleventh Amendment, plaintiff agreed to amend 1 the complaint to sue defendants in their individual capacities.

The parties agreed that ADR is 2 premature until plaintiff amends the complaint. 3 Defendants are correct that claims for damages against the state, its agencies, or its 4 officers for actions performed in their official capacities are barred under the Eleventh 5 Amendment, unless the state waives its immunity. See *Kentucky v. Graham*, 473 U.S. 159, 169 6 (1985).

Section 1983 does not abrogate the states' Eleventh Amendment immunity from suit. 7 See *Quern v. Jordan*, 440 U.S. 332, 344-45 (1979); see also *Hafer v. Melo*, 502 U.S. 21, 30 8 (1991) (clarifying that the Eleventh Amendment does not bar suits against state officials sued in 9 their individual capacities, nor does it bar suits for prospective injunctive relief against state 10 officials sued in their official capacities).

Therefore, plaintiff's complaint is dismissed, and 11 plaintiff is granted leave to file an amended complaint naming defendants in their individual 12 capacity. Plaintiff is advised that this order relieves defendants of their obligation to file a 13 responsive pleading until plaintiff files an amended complaint and the Court screens the amended 14 complaint under 28 U.S.C. § 1915A.

15 VI. MOTION TO AMEND 16 On November 19, 2025, plaintiff filed a motion to amend the complaint, along with a 17 "Proposed First Amended Complaint." (ECF Nos. 20, 21.) However, neither of these documents 18 were signed by plaintiff. Parties proceeding without counsel are required to sign all pleadings, 19 motions, and other papers submitted to the court for filing.

Fed. R. Civ. P. 11(a). In addition, 20 plaintiff's "Proposed First Amended Complaint" is not a true complaint, but rather plaintiff's 21 description of how he intends to amend, and his request for an extension of time to file an 22 amended complaint. (ECF No. 21.) Ordinarily, the Court would require plaintiff to refile his 23 documents bearing his signatures.

However, in light of this order dismissing plaintiff's complaint 24 and granting him leave to amend, plaintiff does not need to re-file his motion to amend, and no 25 longer needs an extension of time to amend. Therefore, the Court disregards plaintiff's unsigned 26 motion to amend and proposed first amended complaint. (ECF Nos. 20, 21.) 27 /// 28 /// 1 | VII.

CONCLUSION 2 Accordingly, IT IS HEREBY ORDERED that: 3 1. Plaintiff's motion (ECF No. 17), construed as a motion for reconsideration, is denied. 4 2. Defendants' motion to opt out (ECF No. 19) is granted. 5 3. The Court's stay of this action (ECF No. 18) is lifted. 6 4. Plaintiffs complaint is dismissed. 7 5. Within thirty days from the date of this order, plaintiff shall complete the attached 8 Notice of Amendment and submit the following documents to the court: 9 a. The completed Notice of Amendment; and 10 b. An original of the Amended Complaint.

11 | Plaintiffs amended complaint shall comply with the requirements of the Civil Rights Act, the 12 || Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must 13 || also bear the docket number assigned to this case and must be labeled "Amended Complaint." 14 | Failure to file an amended complaint in accordance with this order may result in the dismissal of 15 || this action.

16 6. Plaintiff's November 19, 2025 motion to amend and proposed first amended complaint 17 | (ECF Nos. 20, 21), which are unsigned, are disregarded. 18 19 | Dated: November 24, 2025 A aA
Aan Spe | CHI SOO KIM 71 UNITED STATES MAGISTRATE JUDGE 9 /A/well0521 rec.opt 23
24 25 26 27 28 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 FOR THE EASTERN
DISTRICT OF CALIFORNIA 9 FRANK ORLANDO WELLS, No. 2:25-cv-0521 CSK P 10
Plaintiff, 11 v. 12 NOTICE OF AMENDMENT JEFFERY MACOMBER, et al., 13 Defendants.

14 15 Plaintiff submits the following document in compliance with the court's order 16 filed on _____ (date). 17 18 Amended Complaint 19 (Check this box if submitting an Amended

Complaint) 20 DATED: 21 _____ Plaintiff 22 23 24 25 26 27 28