

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Fox Factory, Inc. v. South County Buick GMC, et al.

Fox Factory, Inc. v. South County Buick GMC, No. 3:24-cv-01883-JES-KSC (S.D. Cal. Feb. 25, 2025) · No. 3:24-cv-01883-JES-KSC · Decided February 25, 2025

SUMMARY

The United States District Court for the Southern District of California discharged its order to show cause after Plaintiff voluntarily dismissed South County Buick GMC for failure to serve it. The Court denied without prejudice Plaintiff’s motion for clerk’s entry of default judgment against Honor Buick GMC because, although damages and costs were stated as sums certain, the requested prejudgment interest was not adequately supported by a verifiable calculation.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	February 25, 2025
DOCKET	3:24-cv-01883-JES-KSC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for clerk's entry of default judgment against Honor Buick GMC under Federal Rule of Civil Procedure 55(b)(1). The court also issued an order to show cause regarding failure to serve South County Buick GMC within the period prescribed by Rule 4(m).
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order

TOPICS

- default judgment
- default
- prejudgment interest
- breach of contract
- civil procedure

PRACTICE AREAS

- civil procedure
- commercial litigation
- contracts
- remedies

QUESTIONS PRESENTED

1. Whether the order to show cause concerning Plaintiff's failure to serve South County Buick GMC should be discharged after Plaintiff voluntarily dismissed that defendant without prejudice.
2. Whether Plaintiff's requested damages, prejudgment interest, and costs constituted a sum certain permitting the clerk to enter default judgment under Federal Rule of Civil Procedure 55(b)(1).

HOLDINGS

1. The court discharged the order to show cause because Plaintiff voluntarily dismissed South County Buick GMC without prejudice after being unable to serve it.
2. A Rule 55(b)(1) application must provide sufficient information for the clerk or court to verify that the requested amount is a sum certain. Although the invoices supported the requested damages and the filing fee supported the requested costs, Plaintiff's undocumented prejudgment-interest calculation did not qualify as a verifiable sum certain; therefore, the motion for default judgment was denied without prejudice.

KEY QUOTATIONS

"A sum is not certain "unless no doubt remains as to the amount to which a plaintiff is entitled as a result of the defendant's default."" (at 1)

"Plaintiff may refile the request, but must include detailed information about how the interest sought has been calculated, including the assumptions based for the calculation and separated for each invoice, such that the Court can verify the calculation under Rule 55(b)(1)." (at 2)

FACTUAL BACKGROUND

Fox Factory sued South County Buick GMC and Honor Buick GMC over unpaid invoices for trucks. Honor Buick GMC was served and defaulted, while South County Buick GMC could not be served despite multiple attempts. Fox Factory sought \$147,345.00 in damages, \$25,874.27 in prejudgment interest, and \$405.00 in costs through a Rule 55(b)(1) application.

PROCEDURAL HISTORY

Fox Factory filed a complaint against South County Buick GMC and Honor Buick GMC on October 16, 2024. Honor Buick GMC was served and a clerk's entry of default was entered against it; South County Buick GMC was not served, and Plaintiff voluntarily dismissed that defendant without prejudice after the court issued an order to show cause. The court discharged the order to show cause but denied Plaintiff's motion for clerk's entry of default judgment without prejudice because the requested prejudgment interest was not sufficiently documented to constitute a sum certain.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiff may refile the request for default judgment with detailed information showing how the interest was calculated, including the assumptions used and a separate calculation for each invoice.

CASES CITED

- Franchise Holding II, LLC v. Huntington Rests. Grp., Inc., 375 F.3d 922, 929 (9th Cir. 2004)
- DSG Logistics, LLC v. Rocha, Inc., No. 219CVO00720JLRJRC, 2019 WL 13199218, at *2 (W.D. Wash. Oct. 9, 2019)
- ESET, LLC v. Bradshaw, No. 10-CV-1369 JLS JMA, 2011 WL 2680497, at *3 (S.D. Cal. July 8, 2011)
- Phillips 66 Co. v. Grainer, No. 1:13-CV-1890 LJO-BAM, 2015 WL 3797396, at *3 (E.D. Cal. June 18, 2015)

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