

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

**Carly Randall v. Clint Im, The Bottling Co., LLC, Relief Brand LLC,
CBD Direct LLC, OHC LLC, and Industry Supply LLC**

Randall v. Im · No. 3:23-cv-00243-AR · Decided June 4, 2026

SUMMARY

The United States District Court for the District of Oregon denies Defendant Clint Im’s motions for relief from judgment and to stay execution of the judgment. The court concludes that Im remained in default, had not moved to set aside the default, and failed to establish grounds for relief under Federal Rule of Civil Procedure 60(b). The court adopts the magistrate judge’s Findings and Recommendation and grants in part and denies in part Plaintiff’s motion for attorney fees.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Baggio, District Judge
JURISDICTION	United States District Court for the District of Oregon
DECIDED	June 4, 2026
DOCKET	3:23-cv-00243-AR
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Findings and Recommendation concerning the plaintiff's motion for attorney fees and considered the defendant's motions for relief from judgment under Federal Rule of Civil Procedure 60(b) and for a stay of execution. The court denied the defendant's motions, adopted the Findings and Recommendation, and granted in part and denied in part the plaintiff's motion for attorney fees.
STANDARD OF REVIEW	The court stated that de novo review is required only for portions of a magistrate judge's report to which valid objections have been made, and concluded that because Defendant Im was in default and could not participate, the court was relieved of its obligation to review the record de novo. Relief under Rule 60(b) was analyzed under the applicable standards, including the requirement that a party seeking to set aside default show good cause and that newly discovered evidence could not have been discovered through due diligence.

PRECEDENTIAL VALUE

Unknown; district court order designated as per curiam, with no published reporter citation.

TOPICS

default judgment

default

motion for reconsideration

attorney fees

civil procedure

PRACTICE AREAS

civil procedure

employment law

attorney fees

default judgment

QUESTIONS PRESENTED

1. Whether Defendant Im was entitled to relief from the entry of default or judgment under Federal Rule of Civil Procedure 60(b)(1), (2), or (6).
2. Whether Defendant Im could participate in the case or object to the magistrate judge's Findings and Recommendation while remaining in default and having failed to move to set aside the default.
3. Whether the district court should stay execution of judgment pending resolution of Defendant Im's Rule 60(b) motion.
4. Whether the magistrate judge's Findings and Recommendation on plaintiff's motion for attorney fees should be adopted.

HOLDINGS

1. A party in default is generally precluded from participating in the case until the entry of default has been set aside. Because Defendant Im had not moved to set aside the default, he could not participate or obtain de novo review of his objections.
2. Even construing Defendant Im's filings as a motion to set aside default, he failed to establish good cause.
3. Defendant Im was not entitled to relief under Rule 60(b)(1) because the record did not support his claim that he had not intentionally disregarded the proceedings.
4. The court declined to consider new arguments offered in support of Rule 60(b)(6) relief when those arguments could have been raised earlier.
5. Defendant Im was not entitled to relief under Rule 60(b)(2) because he failed to show that the proffered evidence could not have been discovered through due diligence.
6. The motion to stay execution of judgment was denied as moot because it was contingent on resolution of the denied Rule 60(b) motion.
7. The court adopted the magistrate judge's Findings and Recommendation and granted in part and denied in part Plaintiff's motion for attorney fees.

KEY QUOTATIONS

“Normally, ‘[e]ntry of default cuts off a defendant’s right to appear in the action.’” (Section II)

“Because Defendant Im is in default, he is precluded from participating in this case.” (Section II)

“new arguments raised after final judgment which could have been raised earlier would not justify relief from judgment” (Section I)

“must show the evidence (1) existed at the time of the trial, (2) could not have been discovered through due diligence, and (3) was ‘of such magnitude that production of it earlier would have been likely to change the disposition of the case’” (Section I)

FACTUAL BACKGROUND

Defendants' counsel withdrew in November 2023, and defendants failed to obtain replacement counsel or file a required status report. Defendant Im failed to attend scheduled status conferences, and although the court temporarily stayed deadlines to allow him to determine whether to file for bankruptcy, no bankruptcy petition was filed and the stay was later lifted. After further nonparticipation, plaintiff obtained entry of default against all defendants. Im did not appear again until September 2025, after the magistrate judge had issued a Findings and Recommendation concerning plaintiff's motion for default judgment.

PROCEDURAL HISTORY

Defendants initially appeared through counsel and filed an answer, but their counsel later withdrew. After defendants failed to obtain new counsel, attend scheduled proceedings, or file a required status report, the magistrate judge stayed and later lifted deadlines concerning a possible bankruptcy filing. Plaintiff obtained entry of default against all defendants and moved for default judgment. Defendant Clint Im later appeared and sought relief from judgment and a stay, while also objecting to the magistrate judge's Findings and Recommendation on attorney fees. The district court held that Im remained in default, had not moved to set aside the entry of default, was precluded from participating, and therefore reviewed the Findings and Recommendation without de novo review of the merits of his objections.

DISPOSITION

other

CASES CITED

- Joe Hand Productions, Inc. v. Estrada, No. 1:10-cv-02165-OWW-SKO, 2011 WL 1232606, at *1 n.1 (E.D. Cal. Mar. 31, 2011), adopted, 2011 WL 1557876 (E.D. Cal. Apr. 25, 2011)
- Lombardi v. Donovan, 597 F. App'x 431, 431-32 (9th Cir. 2015)
- Franchise Holding II, LLC v. Huntington Rests. Grp., Inc., 375 F.3d 922, 926 (9th Cir. 2004)
- Schanen v. United States Department of Justice, 762 F.2d 805, 807-08 (9th Cir. 1985), reaffirmed as modified, 798 F.2d 348 (9th Cir. 1986)
- Redwind v. Western Union, LLC, No. 3:14-CV-01699-AC, 2017 WL 1025184, at *3 (D. Or. Mar. 16, 2017)
- Jones v. Aero/Chem Corp., 921 F.2d 875, 878 (9th Cir. 1990)
- Coastal Transfer Co. v. Toyota Motor Sales, U.S.A., 833 F.2d 208, 211 (9th Cir. 1987)

- Big Wuf Enters., LLC v. Go Farm Hemp LLC, No. 6:20-cv-01634-MC, 2021 WL 12319108, at *1 (D. Or. July 12, 2021)
- Verliant Energy, Inc. v. Barry, No. 14-cv-02443-JST, 2015 WL 12990196, at *3 (N.D. Cal. Mar. 31, 2015)
- Transamerica Life Insurance Co. v. Shubin, No. 1:11-cv-01958-LJO-SKO, 2012 WL 5364645, at *2 (E.D. Cal. Oct. 31, 2012)
- Great American Insurance Co. v. M.J. Menefee Construction, Inc., No. F06-0392 AWI DLB, 2006 WL 2522408, at *2 (E.D. Cal. Aug. 29, 2006)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)

OPINION

Randall

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

CARLY RANDALL, an individual, Case No. 3:23-cv-00243-AR Plaintiff,

ORDER

v. CLINT IM, an individual; THE BOTTLING CO., LLC, an Oregon limited liability company; RELIEF BRAND LLC, an Oregon limited liability company; CBD DIRECT LLC, an Oregon limited liability company; OHC LLC, an Oregon limited liability company; and INDUSTRY SUPPLY LLC, an Oregon limited liability company, Defendants. BAGGIO, District Judge: Magistrate Judge Jeff Armistead issued a Findings and Recommendation on February 9, 2026, in which he recommends that this Court grant in part and deny in part Plaintiff's pending Motion for Attorney Fees. F&R 9, ECF No. 82. After Judge Armistead filed this F&R, Defendant Clint Im filed two motions seeking relief from the Court's entry of default judgment against him. See Def. Im Mot. Stay ("Def.'s Mot. Stay"), ECF No. 86; Def. Im Mot. Relief J. ("Def.'s Mot. Relief J."), ECF No. 87. The Court denies Defendant Im's pending motions and adopts Judge Armistead's F&R. I. Defendant Im's Motions Defendant Im moves for relief from judgment under Federal Rule of Civil Procedure 60(b).1 Def.'s Mot. Relief J. 1. Defendant Im first argues under Rule 60(b)(1) that he "did not intentionally disregard these proceedings" and actively participated in this matter "[a]fter becoming aware of the posture of the case" Id. Defendant Im also seeks relief under Rule 60(b)(2)2 and (6) because he has additional evidence and "a meritorious defense that has not been adjudicated on the merits." Id. The Court denies Defendant Im's motions. As an initial matter, the Court denies Defendant Im's motions because he is still in default and has not moved to set aside that default. See Joe Hand Prods., Inc. v. Estrada, No. 1:10-cv-02165-OWW-SKO, 2011 WL 1232606, at *1 n.1 (E.D. Cal. Mar. 31, 2011) ("[A] party in default is generally precluded from participating in the case until the entry of default has been 1 Defendant Im filed his motions before the Court entered judgment in this matter. While Defendant Im's pre-judgment filings are not true Rule 60(b) motions, the Court proceeds by analyzing this motion as if judgment

has already been entered. See *Lombardi v. Donovan*, 597 F. App'x 431, 431–32 (9th Cir. 2015) (“Before the court entered judgment, [the movant’s] attorney filed what he styled an ex parte application for relief under [Rule] 60(b). . . . The district court recognized that counsel’s pre-judgment filing was not a true Rule 60(b) motion but concluded that, even if the Rule applied, counsel had shown no basis for relief under either provision. . . . We conclude the district court did not abuse its discretion in denying the motion.”). 2 While Defendant Im does not explicitly ask for relief under Rule 60(b)(2), the Court construes Defendant Im’s request as seeking relief under Rule 60(b)(2) because Defendant Im attaches various documents in support of his Motion for Relief from Judgment. See Im Decl., ECF No. 88; see also Fed. R. Civ. P. 60(b)(2) (“On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: . . . newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)”). set aside.”), adopted, 2011 WL 1557876 (E.D. Cal. Apr. 25, 2011). Even if the Court were to construe Defendant Im’s filings as a motion to set aside his default, Defendant Im fails to show good cause to set aside the default. *Franchise Holding II, LLC v. Huntington Rests. Grp., Inc.*, 375 F.3d 922, 926 (9th Cir. 2004) (holding that the party in default bears the burden of showing that good cause exists to set aside entry of default). Even if the Court did set aside Defendant Im’s default, Defendant Im’s arguments in support of granting relief are unpersuasive. First, Defendant Im’s argument under Rule 60(b)(1) that he “did not intentionally disregard these proceedings” is unsupported by the record. Def.’s Mot. Relief J. 1. All Defendants were initially represented by counsel and filed an Answer on June 8, 2023. See Answer, ECF No. 13. But on November 8, 2023, counsel for Defendants withdrew as counsel of record with Judge Armistead’s leave. Order, ECF No. 24. In the same order, Judge Armistead granted Defendants’ “request to stay the deadlines for a period of 90 days to allow defendants to obtain new counsel” and ordered Defendants “to file a Status Report by 2/6/2024 advising the court of the status of obtaining new counsel.” *Id.* Defendants failed to file a status report by February 6, 2024. Judge Armistead then scheduled a status conference for March 13, 2024, Scheduling Order, ECF No. 25, but Defendants did not attend, see Minutes of Proceedings, ECF No. 26. On March 20, 2024, it appeared that Defendant Im informed Judge Armistead that he was seeking to file a bankruptcy petition, and Judge Armistead stayed all deadlines to allow Defendant Im time “to determine whether and/or when a bankruptcy proceeding will be filed” Minutes of Proceedings, ECF No. 28. On August 23, 2024, roughly five months later, Plaintiff informed Judge Armistead that “no bankruptcy petition has been filed[,]” and requested a lift of the stay. Pl.’s Status Report 2, ECF No. 35. Judge Armistead lifted the stay on September 3, 2024. Order, ECF No. 36. After Judge Armistead lifted the stay, Defendant Im failed to attend another scheduled status conference on September 18, 2024. Minutes of Proceedings, ECF No. 37. Plaintiff then moved for entry of default as to all Defendants on November 25, 2024, Pl.’s Mot. Entry of Default, ECF No. 38, and Judge Armistead granted Plaintiff’s Motion on December 18, 2024, Order Granting Mot. Entry of Default, ECF No.

41. On February 4, 2025, Plaintiff filed a Motion for Default Judgment. Pl.'s Mot. Default J., ECF No. 48. Then, for the first time in roughly one and a half years, and only after Judge Armistead filed his prior Findings and Recommendation regarding Plaintiff's Motion for Default Judgment, F&R, ECF No. 69, Defendant Im appeared on September 12, 2025, see Def. Im Appl. CM/ECF Registration, ECF No. 72. To date, Defendant Im has never explained his prolonged lack of participation in this case. For that reason, Defendant Im is not entitled to relief under Rule 60(b)(1). Second, the Court declines to consider Defendant Im's new arguments offered in support of his requested relief under Rule 60(b)(6). See Def.'s Mot. Relief J. 2; see also *Schanen v. United States Dep't of Just.*, 762 F.2d 805, 807–08 (9th Cir.1985) (affirming the district court's holding that "new arguments raised after final judgment which could have been raised earlier would not justify relief from judgment" and holding that "[t]he refusal of the district court to consider new arguments at that stage did not constitute an abuse of discretion in spite of [the defendant's] assertion that dire consequences would result from denial of the motion"), *reaff'd as modified*, 798 F.2d 348 (9th Cir. 1986); *Redwind v. W. Union, LLC*, No. 3:14-CV-01699-AC, 2017 WL 1025184, at *3 (D. Or. Mar. 16, 2017) ("[The movant] had notice of the amount of money [the nonmovant] sought as costs, and thus reasonably could have asserted the disparity in resources, potential for a chilling effect, and her financial condition in her original briefing."). Similarly, Defendant Im's request for relief under Rule 60(b)(2) is unsupported because Defendant Im does not show that his newly proffered evidence "could not have been discovered through due diligence" *Jones v. Aero/Chem Corp.*, 921 F.2d 875, 878 (9th Cir. 1990) (holding that to obtain relief from judgment under Rule 60(b)(2), the movant "must show the evidence (1) existed at the time of the trial, (2) could not have been discovered through due diligence, and (3) was 'of such magnitude that production of it earlier would have been likely to change the disposition of the case'" (quoting *Coastal Transfer Co. v. Toyota Motor Sales, U.S.A.*, 833 F.2d 208, 211 (9th Cir. 1987))). For the foregoing reasons, the Court denies Defendant Im's Motion for Relief from Judgment. Because Defendant Im's Motion for Stay of Execution of Judgment requests "a stay of execution of the Judgment . . . pending resolution of [Defendant Im's] Motion for Relief from Judgment under Rule 60(b)[,]" Def.'s Mot. Stay 1, the Court denies Defendant Im's Motion for Stay of Execution of Judgment as moot. II. Judge Armistead's Findings and Recommendation Having denied Defendant Im's motions, the Court now turns to Judge Armistead's pending Findings and Recommendation, which is before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). Defendant Im filed objections to Judge Armistead's Findings and Recommendation on September 19, 2025. Def. Clint Im's Obj., ECF No. 85. But as mentioned above, Judge Armistead entered default against Defendant Im on December 18, 2024. Order, ECF No. 41. "Normally, '[e]ntry of default cuts off a defendant's right to appear in the action.'" *Big Wuf Enters., LLC v. Go Farm Hemp LLC*, No. 6:20-cv-01634- MC, 2021 WL 12319108, at *1 (D. Or. July 12, 2021) (quoting *Verliant Energy, Inc. v. Barry*, No. 14-cv-02443-JST, 2015 WL 12990196, at *3 (N.D. Cal. Mar. 31, 2015)). "A defendant's remedy if a defendant wants to set

aside default . . . is for the defendant to file a motion to set aside entry of default pursuant to Rule 55(c) of the Federal Rules of Civil Procedure.” *Transamerica Life Ins. Co. v. Shubin*, No. 1:11-cv-01958-LJO-SKO, 2012 WL 5364645, at *2 (E.D. Cal. Oct. 31, 2012) (quoting *Great Am. Ins. Co. v. M.J. Menefee Constr., Inc.*, No. F06- 0392 AWI DLB, 2006 WL 2522408, at *2 (E.D. Cal. Aug. 29, 2006)). Without such a motion, “a party in default is generally precluded from participating in the case until the entry of default has been set aside.” *Joe Hand Prods*, 2011 WL 1232606, at *1 n.1. Here, Defendant Im has been in default for a year and a half and has not filed a motion to set aside Judge Armistead’s entry of default. Because Defendant Im is in default, he is precluded from participating in this case. The Court therefore reviews Judge Armistead’s Findings and Recommendation as though no objections have been entered and is relieved of its obligation to review the record de novo. See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that de novo review required only for portions of Magistrate Judge’s report to which objections have been made). Having reviewed the legal principles de novo, the Court finds no error.

CONCLUSION

The Court DENIES Defendant Clint Im’s Motion for Relief From Judgment [87] and Motion for Stay of Execution of Judgment [86]. The Court also ADOPTS Magistrate Judge Armistead’s Findings and Recommendation [82]. Therefore, Plaintiff’s Motion for Attorney Fees [66] is GRANTED IN PART and DENIED IN PART.

IT IS SO ORDERED. DATED this 4th day of June, 2026. United States District Judge
6 - ORDER