UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

John Doe and Jane Roe v. Avi Schwalb

Doe and Roe v. Schwalb · No. Adversary No. 25-01255-JGR · Decided March 6, 2026

SUMMARY

The United States Bankruptcy Court for the District of Colorado denied Defendant Avi Schwalb's motion to set aside the clerk's entry of default in an adversary proceeding seeking a determination that Plaintiffs' debt was nondischargeable under 11 U.S.C. § 523(a)(6). The court found the default willful, identified prejudice from continued delay, and concluded that Defendant had not presented a sufficiently supported meritorious defense.

CASE DETAILS

COURT	United States Bankruptcy Court for the District of Colorado
WRITING FOR THE COURT	Joseph G. Rosania, Jr.
JURISDICTION	United States Bankruptcy Court for the District of Colorado
DECIDED	March 6, 2026
DOCKET	Adversary No. 25-01255-JGR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought an adversary proceeding seeking a determination that their debt was nondischargeable under 11 U.S.C. § 523(a)(6). After Defendant failed to answer within the extended deadline, the clerk entered default. Defendant moved under Federal Rule of Civil Procedure 55(c) to set aside the clerk's entry of default, and the bankruptcy court denied the motion.
STANDARD OF REVIEW	The court applied the discretionary good-cause standard under Federal Rule of Civil Procedure 55(c), considering whether the default was willful, whether setting it aside would prejudice the opposing party, and whether the defendant presented a meritorious defense.
PRECEDENTIAL VALUE	Unknown; bankruptcy court order with no reporter citation or stated precedential status.
PARTIES	John Doe and Jane Roe v. Avi Schwalb

TOPICS

default · default judgment · adversary proceedings · nondischargeable debts · chapter 7

PRACTICE AREAS

Bankruptcy · Civil procedure · Real estate and landlord-tenant law · Remedies

QUESTIONS PRESENTED

1. Whether Defendant demonstrated good cause under Federal Rule of Civil Procedure 55(c) to set aside the clerk's entry of default.
2. Whether Defendant's failure to answer was willful.
3. Whether setting aside the default would cause identifiable prejudice to Plaintiffs.
4. Whether Defendant presented facts constituting a meritorious defense to Plaintiffs' nondischargeability claims.

HOLDINGS

1. The motion to set aside the clerk's entry of default was denied because Defendant failed to establish good cause.
2. Defendant's default was willful and this factor weighed against vacating the clerk's entry of default.
3. Setting aside the default would cause identifiable prejudice to Plaintiffs, and this factor weighed against relief.
4. Defendant failed to present a meritorious defense because his motion and answer contained only general denials and a conclusory assertion regarding Plaintiffs' burden of proof.

KEY QUOTATIONS

> *"Unlike the simple notice pleading required in original actions, the rule relating to relief from default judgments contemplates more than mere legal conclusions, general denials, or simple assertions that the movant has a meritorious defense."* (Analysis, third factor)

> *"The balance of the equities favors exercising judicial discretion and denying the motion to vacate the clerk's entry of default for the reasons set forth above."* (Conclusion)

FACTUAL BACKGROUND

Plaintiffs, pseudonymous immigrant tenants, alleged that Defendant subjected them to threats, intimidation, retaliation, unsafe and unsanitary housing conditions, and an unlawful lockout from a residential apartment in Aurora, Colorado. They filed state-law claims and obtained injunctive relief in state court. Defendant later filed bankruptcy, first under Chapter 11 and then under Chapter 7, while the state litigation and numerous other civil and foreclosure matters were pending. In the adversary proceeding, Defendant repeatedly sought delay, failed to meet answer deadlines, and ultimately offered only general denials and the conclusory assertion that Plaintiffs bore the burden of proving willful and malicious intent.

PROCEDURAL HISTORY

Plaintiffs commenced the adversary proceeding on September 3, 2025, and served Defendant on September 9, 2025. The court extended Defendant's answer deadline, but Defendant instead moved to stay the proceeding; after denying that motion, the court ordered Defendant to answer or otherwise respond. Defendant failed to do so, and the clerk entered default on December 16, 2025. Defendant subsequently filed a motion to set aside the default and an answer, which the court denied, ordering Plaintiffs to file a motion for default judgment by March 20, 2026.

DISPOSITION

other

CASES CITED

- Kafzson Bros., Inc. v. E.P.A., 839 F.2d 1396, 1399 (10th Cir. 1988)
- Gomes v. Williams, 420 F.2d 1364, 1366 (10th Cir. 1970)
- Pinson v. Equifax Credit Information Services, Inc., 316 F. App'x 744, 750 (10th Cir. 2009)
- Guttman v. Silverberg, 167 F. App'x 1, 4 (10th Cir. 2005)
- In re Milos, United States Bankruptcy Court for the District of Colorado, Case No. 17-01138-JGR, Aug. 28, 2017 (Doc. 18)
- Security National Mortgage Co. v. Head, 2014 WL 4627483, at *2-*3 (D. Colo. 2014)
- Indigo America, Inc. v. Big Impressions, 597 F.3d 1, 4 (1st Cir. 2010)
- In re Stone, 588 F.2d 1316, 1319 (10th Cir. 1978)