

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Fernando Gastelum v. Pinnacle Solana LP

Gastelum · No. 25-cv-3052-AJB-DDL · Decided January 20, 2026

SUMMARY

The United States District Court for the Southern District of California denied without prejudice Pinnacle Solana LP’s motion to dismiss. The court held that the motion was precluded because Pinnacle filed it after the Clerk entered default, and explained that Pinnacle’s available recourse was to seek to set aside the entry of default under Federal Rule of Civil Procedure 55(c).

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 20, 2026
DOCKET	25-cv-3052-AJB-DDL
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to dismiss after the Clerk entered default against it. The court considered whether the motion could be filed while the entry of default remained in effect.
STANDARD OF REVIEW	The court applied the procedural requirements governing entry of default and the effect of an entry of default on a defendant's participation in the action.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- default
- motions to dismiss
- civil procedure

PRACTICE AREAS

- civil procedure
- default practice

QUESTIONS PRESENTED

- Whether a defendant may file a motion to dismiss after the Clerk has entered default against it.

2. Whether the defendant's motion to dismiss should be denied without prejudice because the entry of default had not been set aside.

HOLDINGS

1. Once the Clerk has entered default, the defendant is generally precluded from participating in the action, including filing a motion to dismiss, until the entry of default is set aside.
2. A defendant seeking to defend after entry of default must move to set aside the default under Federal Rule of Civil Procedure 55(c) before participating in the action.

KEY QUOTATIONS

“Entry of default cuts off a defendant’s rights to appear in the action, file counterclaims, and present a defense.” (at 1)

“At this juncture, if Pinnacle wishes to defend against the action, its only recourse is to seek to set aside the entry of default.” (at 2)

FACTUAL BACKGROUND

Pinnacle was served with the summons and complaint on November 12, 2025, but did not file a responsive pleading by the December 3, 2025 deadline. The Clerk entered default on January 13, 2026. Pinnacle filed its motion to dismiss later that day, and after an earlier motion was struck for lack of an attorney's signature, filed the motion at issue while the default remained in place.

PROCEDURAL HISTORY

Plaintiff served Pinnacle on November 12, 2025. Pinnacle did not answer or otherwise respond within the time required by Federal Rule of Civil Procedure 12(a)(1)(A)(i), and Plaintiff requested entry of default on January 12, 2026. The Clerk entered default on January 13, 2026, after which Pinnacle filed a motion to dismiss. The court previously struck an improperly signed motion and denied the renewed motion without prejudice because it was filed after entry of default.

DISPOSITION

other

CASES CITED

- Wahoo Int’l, Inc. v. Phix Doctor, Inc., No. 13-cv-1395-GPC-BLM, 2014 WL 5465373, at *2 n.1 (S.D. Cal. Oct. 28, 2014)
- Clifton v. Tomb, 21 F.2d 893, 897 (4th Cir. 1927)
- Transamerica Life Ins. Co. v. Shubin, No. 11-cv-01958-LJO-SKO, 2012 WL 5364645, at *2 (E.D. Cal. Oct. 31, 2012)
- Joe Hand Prods., Inc. v. Estrada, No. 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)

- Jellybean Entm't, Inc. v. Usnile LLC, No. 13-cv-144-IEG-WMC, 2013 WL 3283845, at *3 (S.D. Cal. June 26, 2013)
- Oliver v. All-Pro Bail Bonds, Inc., No. 17-cv-1294-AJB-NLS, 2017 WL 11421541, at *1 (S.D. Cal. Aug. 16, 2017)
- United States v. Mesle, 615 F.3d 1085 (9th Cir. 2010)

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