

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
GEORGIA, ATLANTA DIVISION

Ricky R. Franklin v. MENS USA LLC doing business as
MENSUSA.COM

Franklin · No. 1:25-cv-03930-SDG · Decided March 31, 2026

SUMMARY

The United States District Court for the Northern District of Georgia denied Ricky R. Franklin’s motion for default judgment against Mens USA LLC. The court granted Mens USA’s motions for an extension of time and to set aside the Clerk’s entry of default because a factual dispute existed regarding whether the company was properly served.

CASE DETAILS

COURT	United States District Court for the Northern District of Georgia, Atlanta Division
JURISDICTION	United States District Court for the Northern District of Georgia, Atlanta Division
DECIDED	March 31, 2026
DOCKET	1:25-cv-03930-SDG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for default judgment after the Clerk entered default against Defendant. Defendant moved for an extension of time and to set aside the Clerk's entry of default, asserting that service of process was ineffective.
STANDARD OF REVIEW	The Court applied the excusable-neglect standard under Federal Rule of Civil Procedure 6(b)(1)(B) and determined whether default judgment was permissible in light of the disputed adequacy of service of process.
PRECEDENTIAL VALUE	Unknown
PARTIES	Ricky R. Franklin v. MENS USA LLC doing business as MENSUSA.COM

TOPICS

default judgment

service of process

default

civil procedure

commercial litigation

PRACTICE AREAS

civil procedure

commercial litigation

Telephone Consumer Protection Act

QUESTIONS PRESENTED

1. Whether Mens USA demonstrated excusable neglect warranting a nunc pro tunc extension of its deadline to respond.
2. Whether the Court could enter default judgment while a factual dispute existed concerning whether Mens USA was properly served with process.
3. Whether the Clerk's entry of default should be set aside.

HOLDINGS

1. Mens USA's delay resulted from excusable neglect, so the Court extended its response deadline nunc pro tunc through March 13, 2026 and treated its response as timely.
2. Default judgment may not be entered against a defendant unless the defendant was properly served or waived service; because effective service on Mens USA was factually disputed, Franklin was not entitled to default judgment.
3. The Clerk's entry of default against Mens USA was vacated.

KEY QUOTATIONS

"Before judgment may be entered against a defendant, the defendant must have been served properly or have waived service of process."

"Generally, where service of process is insufficient, the court has no power to render judgment and the judgment is void."

FACTUAL BACKGROUND

Franklin alleged that Mens USA was served through its registered agent, Ashkan Mashhadian, and filed proof of service. Mens USA did not initially respond, resulting in entry of default. Mashhadian later attested that the papers were delivered to his father, who was not authorized to accept service for Mens USA, creating a factual dispute over effective service.

PROCEDURAL HISTORY

Franklin originally sued Classic Firearms LLC and Mens USA in a related action. After Mens USA failed to respond, the Clerk entered default, and the claims against Mens USA were severed into this action. The Court ordered Mens USA to appear through counsel and respond to the default-judgment motion. Mens USA later appeared specially, moved for an extension of time, and sought to set aside default based on a factual dispute concerning whether its registered agent was personally served.

DISPOSITION

other

CASES CITED

- Franklin v. Classic Firearms LLC, Case No. 1:24-cv-03922-SDG
- Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985)
- Fortson v. Best Rate Funding, Corp., 602 F. App'x 479, 481 (11th Cir. 2015)
- Worldstar Commc'ns Corp. v. Feltman (In re Worldwide Web Sys., Inc.), 328 F.3d 1291, 1299 (11th Cir. 2003)
- J&J Sports Prods., Inc. v. K. Christopher Edwards & Co., Civ. A. No. 1:15-cv-3206-AT, 2016 WL 9185142, at *1 (N.D. Ga. May 13, 2016)

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