

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Brunsen Burner Company and Loud Cloud, LLC v. GRP NM LLC,
Eugenia Smith, Fredrick Lawrence, Customer Does 1-10

Brunsen Burner · No. CIV 24-0952 JB/LF · Decided March 5, 2026

SUMMARY

The United States District Court for the District of New Mexico grants GRP NM LLC’s motion to set aside the Clerk’s Entry of Default under Federal Rule of Civil Procedure 55(c). The court concludes that GRP NM’s failure to respond was not willful, that the plaintiffs were not sufficiently prejudiced by the delay, and that GRP NM presented potentially meritorious defenses. The court consequently denies the plaintiffs’ motion for default judgment.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 5, 2026
DOCKET	CIV 24-0952 JB/LF
DISPOSITION	other
PROCEDURAL POSTURE	Defendant GRP NM LLC moved under Federal Rule of Civil Procedure 55(c) to set aside the Clerk's Entry of Default. Plaintiffs moved under Rule 55(b) for default judgment.
STANDARD OF REVIEW	Under Rule 55(c), an entry of default may be set aside for good cause. Courts consider culpable or willful conduct, prejudice to the opposing party, and whether the defendant presents a meritorious defense. The standard is liberal and differs from the more demanding standard for setting aside a judgment under Rule 60. Default judgment under Rule 55(b) requires a stronger showing that the adversarial process has been halted by an essentially unresponsive party and that the diligent party requires protection from continued delay and uncertainty.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- default
- default judgment
- civil procedure
- patent infringement
- commercial litigation

PRACTICE AREAS

civil procedure

intellectual property

commercial litigation

QUESTIONS PRESENTED

1. Whether GRP NM LLC demonstrated good cause under Federal Rule of Civil Procedure 55(c) to set aside the Clerk's Entry of Default.
2. Whether plaintiffs were sufficiently prejudiced by GRP NM's delay to justify maintaining the default.
3. Whether GRP NM presented a sufficiently meritorious defense to permit the case to proceed on the merits.
4. Whether the circumstances justified entry of default judgment under Federal Rule of Civil Procedure 55(b).

HOLDINGS

1. GRP NM showed good cause to set aside the Clerk's Entry of Default because its failure to respond was not willful, plaintiffs did not establish legally sufficient prejudice from the delay, and GRP asserted sufficiently meritorious defenses.
2. Default judgment was not warranted because GRP NM did not willfully or deliberately halt the adversarial process and the circumstances did not show prejudicial delay requiring protection of plaintiffs.

KEY QUOTATIONS

“The standard for setting aside an entry of default under rule 55(c) is liberal because the “preferred disposition of any case is upon its merits and not by default judgment.””

“Because default judgment is a harsh sanction involving a court’s power to enter and enforce judgments regardless of the merits of a case, courts do not favor such a sanction purely as a penalty for delays in filing or other procedural error.”

FACTUAL BACKGROUND

Plaintiffs sued GRP NM LLC for patent infringement and common-law claims. Service was made on GRP NM's New Mexico registered agent, which apparently sent notice by email to a related entity rather than directly to GRP NM; GRP maintained that the summons and complaint were not located in its records and that no representative recalled receiving them. After discovering the lawsuit through a review of online job advertisements, GRP promptly searched its records, retained counsel, and moved to set aside the default.

PROCEDURAL HISTORY

Plaintiffs filed claims for patent infringement and several common-law tort and unfair-competition claims on September 25, 2024. Although service was made on GRP NM's registered agent, GRP did not timely plead or otherwise defend, and the Clerk entered default on December 17, 2024. GRP later learned of the action,

promptly retained counsel, and moved to set aside the default. The court granted that motion, set aside the entry of default, and denied plaintiffs' motion for default judgment.

DISPOSITION

other

CASES CITED

- Hunt v. Ford Motor Co., No. 94-3054, 1995 WL 523646, at *3 (10th Cir. Aug. 29, 1995)
- In re Dierschke, 975 F.2d 181, 183 (5th Cir. 1992)
- Watkins v. Donnelly, 551 F. App'x 953, 958 (10th Cir. 2014)
- Gomes v. Williams, 420 F.2d 1364, 1366 (10th Cir. 1970)
- Pinson v. Equifax Credit Info. Servs., Inc., 316 F. App'x 744, 749-50 (10th Cir. 2009)
- Noland v. City of Albuquerque, No. CIV 08-0056JB/LFG, 2009 WL 2424591, at *1 (D.N.M. June 18, 2009)
- In re Rains, 946 F.2d 731, 732-33 (10th Cir. 1991)
- Berthelsen v. Kane, 907 F.2d 617, 621 (6th Cir. 1990)
- United States v. Austin, 426 F.3d 1266, 1274 (10th Cir. 2005)