

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Simon v. Cumba

Simon · No. 3:25-CV-00107-CAB-MSB · Decided February 24, 2025

SUMMARY

The United States District Court for the Southern District of California denies Plaintiff Phillip W. Simon's request for entry of default judgment against Defendant Deborah A. Cumba. The court concludes that Defendant timely filed a motion to dismiss and thereby raised a defense under Federal Rule of Civil Procedure 55(a).

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 PHILLIP W. SIMON, Case No. 3:25-CV-00107-CAB-MSB 12 Plaintiff,
ORDER DISMISSING REQUEST 13 v. FOR ENTRY OF DEFAULT 14 DEBORAH A.
CUMBA, [Doc. No. 13] 15 Defendant, 16 17 18 Plaintiff has filed a request for entry of default
judgment against Defendant. [Doc. 19 No. 13.] But Defendant filed a timely motion to dismiss the
complaint on Feb.

13, 2025. 20 [Doc. No. 10.] Defendant has clearly raised a defense before this Court. Fed. R. Civ.
P. 21 55(a); see Song v. Deeds, 947 F.2d 951 (9th Cir. 1991) (explaining that a motion to dismiss
22 constitutes an effort to "otherwise defend" the lawsuit). 23 /// 24 /// 25 /// 26 27 28 l Plaintiff's
motion for default judgment is denied. 2 3 It is SO ORDERED.

4 5 || Dated: February 24, 2025 € 6 Hon. Cathy Ann Bencivengo 7 United States District Judge 8 9
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28