

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

BMO Bank N.A. v. Kular Transportation Inc.

BMO Bank N.A. · No. 1:24-cv-01568-JLT-SAB · Decided March 11, 2025

SUMMARY

The United States District Court for the Eastern District of California vacated the initial scheduling conference because defaults had been entered against the defendants. The court ordered the plaintiff to file a motion for default judgment within 35 days and warned that noncompliance could result in a recommendation of dismissal for failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 11, 2025
DOCKET	1:24-cv-01568-JLT-SAB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a diversity action, and the Clerk entered default against two defendants. The court vacated the initial scheduling conference and required Plaintiff to file a motion for default judgment.
PRECEDENTIAL VALUE	Unknown; district court order directing procedural steps in the action.

TOPICS

- default judgment
- default
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation
- remedies

QUESTIONS PRESENTED

- Whether the court should vacate the initial scheduling conference after the Clerk entered default against the defendants.
- Whether Plaintiff must file a motion for default judgment under Federal Rule of Civil Procedure 55.

HOLDINGS

- 1. Under Federal Rule of Civil Procedure 55, obtaining a default judgment is a two-step process: entry of default under Rule 55(a), followed by a plaintiff's application for default judgment under Rule 55(b)(1) or (b)(2).
- 2. The initial scheduling conference should be vacated while Plaintiff proceeds with a motion for default judgment.

KEY QUOTATIONS

- “Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two-step process.”* (slip op. at 1)
- “Default judgments are generally disfavored, and whenever it is reasonably possible, cases should be decided upon their merits.”* (slip op. at 1)

FACTUAL BACKGROUND

BMO Bank N.A. commenced the action on December 19, 2024. Kular Transportation Inc. and Lakhwinder Singh failed to plead or otherwise defend, and the Clerk entered default against them on February 27, 2025. An initial scheduling conference was set for April 8, 2025.

PROCEDURAL HISTORY

Plaintiff commenced the action on December 19, 2024. The Clerk entered default against Kular Transportation Inc. and Lakhwinder Singh on February 27, 2025. Because the defendants were in default, the court vacated the April 8, 2025 scheduling conference and ordered Plaintiff to file a motion for default judgment within thirty-five days from service of the order.

DISPOSITION

other

CASES CITED

- Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, at *2 (N.D. Cal. Feb. 11, 2008)
- In re Hammer, 940 F.2d 524 (9th Cir. 1991)

OPINION

BMO Bank N.A. v. Kular Transportation Inc
PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

9 10 BMO BANK N.A., Case No. 1:24-cv-01568-JLT-SAB 11 Plaintiff, ORDER VACATING
APRIL 8, 2025

SCHEDULING CONFERENCE AND

12 v. REQUIRING PLAINTIFF TO FILE A

MOTION FOR DEFAULT JUDGMENT

13 KULAR TRANSPORTATION INC., et al.,

THIRTY-FIVE DAY DEADLINE

14 Defendants. 15

16 Plaintiff commenced this action on December 19, 2024. (ECF No. 1.) On February 27, 17
2025, the Clerk of the Court entered default against Defendants Kular Transportation Inc. and 18
Lakhwinder Singh. (ECF No. 9.) The scheduling conference in this matter is currently set for
19 April 8, 2025. (ECF No. 3.)

20 Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two- 21 step
process. *Yue v. Storage Technology Corp.*, No. 3:07-cv-05850, 2008 WL 361142, *2 (N.D. 22 Cal.
Feb. 11, 2008). Entry of default is appropriate as to any party against whom a judgment for 23
affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal
24 Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed.
R. 25 Civ. P. 55(a). After entry of default, a plaintiff can seek entry of default judgment. Fed. R.
Civ. 26 P. 55(b)(1) and (2). “Default judgments are generally disfavored, and whenever it is
reasonably 27 possible, cases should be decided upon their merits.” *In re Hammer*, 940 F.2d 524,
(9th Cir. 1 As the Defendants in this matter are in default, the Court shall vacate the initial 2 |
scheduling conference and set a deadline for a motion for default judgment to be filed. 3
Accordingly, IT IS HEREBY ORDERED that: 4 1. Within thirty-five (35) days from the date of
service of this order, Plaintiff shall 5 file a motion for default judgment; 6 2. The initial scheduling
conference set for April 8, 2025, is VACATED; and 7 3. Plaintiff is advised that the failure to
comply with this order shall result in a 8 recommendation that this action be dismissed for failure
to prosecute. 9

10 IT IS SO ORDERED. FA. ee

11 | Dated: _ March 11, 2025

STANLEY A. BOONE

12 United States Magistrate Judge 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28