

**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.

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 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

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