

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Jodie Scribner v. Pollack & Rosen, P.A.

Scribner · No. 2:25-cv-01487-CKD · Decided December 15, 2025

OPINION

Scribner

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JODIE SCRIBNER, No. 2:25-cv-01487-CKD

12 Plaintiff,

13 v. ORDER DENYING PLAINTIFF’S MOTION

FOR DEFAULT JUDGMENT

14 POLLACK & ROSEN, P.A.,

15 Defendant. (ECF No. 9) 16 17 18 Plaintiff Jodie Scribner moves the Court for default judgment
against defendant Pollack & 19 Rosen, P.A. (“Pollack & Rosen”).¹ (ECF No. 9.) Specifically,
plaintiff seeks a default judgment 20 against defendant for violations of the Fair Debt Collection
Practices Act (15 U.S.C. § 1692 et 21 seq.) and the Rosenthal Fair Debt Collection Practices Act
under California law. Plaintiff appears 22 to seek \$2,000 in statutory damages, “judgment interest
as provided by law,” \$3,035.00 in 23 attorney’s fees and costs, and “actual damages in an amount
supported by Plaintiff’s declaration,” 24 however, plaintiff does not clearly specify an amount of
damages sought. 25 Defendant has neither appeared nor opposed the motion. The Court
previously ordered 26 this motion submitted without appearance and argument pursuant to Local
Rule 230(g). (ECF No. 27 1 This motion is referred to the undersigned pursuant to Local Rule
302(c)(19) and 28 U.S.C. 28 § 636(b)(1)(A). 1 10.) For the reasons set forth below, plaintiff’s
motion for default judgment should be denied 2 without prejudice.

3 I. BACKGROUND

4 On May 28, 2025, plaintiff filed a complaint against defendant for violations of the Fair 5 Debt
Collections Practices Act (“FDCPA”) (15 U.S.C. § 1692 et seq.) and the Rosenthal Fair 6 Debt
Collection Practices Act (“Rosenthal Act”) (Cal. Civ. Code § 1788). (ECF No. 1.) Plaintiff 7
alleges defendant is a law firm specializing in debt collection, headquartered in Coral Gables, 8
Florida. (Id. ¶ 5.) Plaintiff incurred an outstanding consumer obligation to eBay, Inc. totaling 9
\$3,696. (Id. ¶ 7.) Defendant acquired the right to collect on this debt. (Id. ¶ 8.) On or around

10 March 18, 2025, defendant sent a digital communication to plaintiff in an attempt to collect on the

11 debt but did not include their debt collection license number. (Id. ¶¶ 9, 10.) Plaintiff did not know 12 if she was being contacted by a legitimate business. (Id. ¶ 11.) Plaintiff alleges this “misleading 13 conduct” has severely disrupted plaintiff’s daily life and general well-being. (Id. ¶ 12.) Plaintiff 14 seeks “statutory and actual damages in an amount to be determined at trial” for violations of the 15 FDCPA, “actual damages, pursuant to Cal. Civ. Code § 1788.30(a),” statutory damages up to 16 \$1,000 pursuant to Cal. Civ. Code § 1788.30(b), and reasonable costs and attorney’s fees.” (Id. at 17 5, 6.) 18 In the motion for default judgment, plaintiff requests that the Court enter judgment against 19 defendant, and seeks statutory damages totaling \$2,000, “actual damages in an amount supported 20 by Plaintiff’s declaration,” reasonable attorney’s fees and costs,” and judgment interest as 21 provided by law. (ECF No. 9 at 3.) On June 24, 2025, plaintiff filed a proof of service indicating 22 that defendant was served via its registered agent on June 9, 2025. (ECF No. 4.) 23 On September 2, 2025, plaintiff requested a Clerk’s Entry of Default as to defendant (ECF

24 No. 5), and on September 4, 2025, the Clerk entered default against defendant (ECF No. 6).

25 Plaintiff’s motion for default judgment filed October 17, 2025 (ECF No. 9) is now before the 26 Court. 27 ///// 28 /////

1 II. LEGAL STANDARDS

2 Pursuant to Federal Rule of Civil Procedure 55, default may be entered against a party 3 against whom a judgment for affirmative relief is sought if that party fails to plead or otherwise 4 defend against the action. See Fed. R. Civ. P. 55(a). The decision to grant or deny an application 5 for default judgment lies within the sound discretion of the district court. *Aldabe v. Aldabe*, 616 6 F.2d 1089, 1092 (9th Cir. 1980). 7 As a general rule, once default is entered, well-pleaded factual allegations in the operative 8 complaint are taken as true except for the allegations relating to damages. *TeleVideo Sys., Inc. v. 9 Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987) (per curiam) (citing *Geddes v. United Fin. Grp.*, 10 559 F.2d 557, 560 (9th Cir. 1977) (per curiam)); accord *Fair Housing of Marin v. Combs*, 285 11 F.3d 899, 906 (9th Cir. 2002). “[N]ecessary facts not contained in the pleadings, and claims 12 which are legally insufficient, are not established by default.” *Cripps v. Life Ins. Co. of N. Am.*, 13 980 F.2d 1261, 1267 (9th Cir. 1992). Where the pleadings are insufficient, the court may require 14 the moving party to produce evidence in support of the motion for default judgment. See 15 *TeleVideo Sys.*, 826 F.2d at 917-18. 16 Default judgments are ordinarily disfavored. *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th 17 Cir. 1986). In making the determination whether to grant a motion for default judgment, the court

18 considers the following factors: 19 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff’s substantive claim, (3) the sufficiency of the complaint, (4) 20 the sum of money at stake in the action; (5) the possibility of a dispute concerning material facts; (6) whether the

default was due to 21 excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits. 22 Id. at 1471-72. 23

III. DISCUSSION

24 A. Jurisdiction 25

1. Subject Matter Jurisdiction

26 When default judgment is sought, the “district court has an affirmative duty to look into 27 its jurisdiction over both the subject matter and the parties.” *In re Tuli*, 172 F.3d 707, 712 (9th 28

1 Cir. 1999) (citations omitted). The Court has subject matter jurisdiction over this action pursuant 2 to 29 U.S.C. § 1331 because it arises under the FDCPA. The Court has supplemental jurisdiction 3 over the state law Rosenthal Act claim under 28 U.S.C. § 1367, given the relatedness of the 4 claims. The Court’s jurisdiction analysis is not a finding that the claims were sufficiently pled. 5 2.

Personal Jurisdiction 6 To enter default judgment, the court must have a basis for the exercise of personal 7 jurisdiction over the defendants in default. *In re Tuli*, 172 F.3d at 712. “Without a proper basis for 8 [personal] jurisdiction, or in the absence of proper service of process, the district court has no 9 power to render any judgment against the defendant’s person or property unless the defendant has 10 consented to jurisdiction or waived the lack of process.” *S.E.C. v. Ross*, 504 F.3d 1130, 1138-39 11 (9th Cir. 2007). 12 In order to subject a non-resident defendant to personal jurisdiction, that defendant must 13 have enough minimum contacts with the forum state that maintenance of the suit does not offend 14 “traditional notions of fair play and substantial justice.”

Int’l Shoe Co. v. State of Wash., Office 15 of Unemployment Comp. & Placement, 326 U.S. 310, 316 (1945) (citation omitted). 16 Here, plaintiff alleges that defendant is headquartered in Coral

Gables, Florida, and 17 collects on consumers in the state of California. (ECF No. 1 ¶ 5.) For the purposes of this motion, 18 this is sufficient to establish personal jurisdiction. 19 B. Service of

Complaint 20 In reviewing a motion for default judgment, the court must determine whether defendant 21 was properly served with the summons and complaint. Fed. R. Civ. P. 4(c). 22 A

return of service filed on June 24, 2025, indicates that defendant was served via a 23 registered agent, National Registered Agents, Inc., 330 N. Brand Blvd, Glendale, California 24 91203, and states a person named Sarai Marin was served. (ECF No. 4.) Based on the information 25 in the return of service, it appears defendant was properly served. See Fed. R. Civ. P. 4(h) (a 26

corporation, partnership, or association must be served in a judicial district of the United States in 27 the matter prescribed by Rule 4(e)(1) or “by delivering a copy of the summons and of the 28 complaint to an officer, a managing or general agent, or any other agent authorized by 1 appointment or by law to receive service of process and—if the agent is one authorized by statute 2 and the statute so requires—by also mailing a copy of each to the defendant”); *id.* at 4(e)(1) (an

3 individual may be served by following state law in the state where the district court is located); 4 Cal. Civ. Proc. Code §§ 415.10, 416.10, 416.30 (providing for service of an association by 5 delivering a copy of the summons and the complaint to the person designated as agent for service 6 of process). 7 C. Deficient Motion for Default Judgment 8 Plaintiff’s motion for default

judgment is three pages long, and has no argument, legal analysis, or citation to legal authority supporting the motion. (See ECF No. 9.) 10 Courts, including this district court, regularly deny default judgment motions that are 11 deficient. See *S.A. ex rel. L.A. v. Exeter Union Sch. Dist.*, 2009 WL 1953462, at *3 (E.D. Cal.

12 July 7, 2009) (denying default judgment motion as deficient that contained no caselaw); *Szabo v.*

13 *Southwest Endocrinology Assoc. PLLC*, 2021 WL 3411084, at *1 (D. Ariz. July 27, 2021) 14 (“[M]otions for default judgment—at least successful ones—are typically fully developed, such 15 that the Court has . . . all that is necessary” to award relief.); *Studio 010 Inc. v. Digital Cashflow 16 LLC*, 2024 WL 2274320, at *2 (W.D. Wash. May 20, 2024) (“Plaintiff’s motion for 17 default judgment contained no caselaw in support of Plaintiff’s commercial disparagement claim, despite 18 the fact that it was Plaintiff’s burden to demonstrate to the Court that under the pertinent law, 19 [Plaintiff’s] claims, as alleged, [we]re legally sufficient.”) (emphasis in original) (internal 20 quotation marks and citation omitted); see also *Very Music Inc. v. Kid Glove Prods., Inc.*, 2016 21 WL 6674991, at *3 (C.D. Cal. Apr. 28, 2016) (finding two-page motion with only one sentence 22 of legal analysis insufficient to justify granting default judgment, and proceeding to analyze the 23 motion despite deficiency because defendants submitted a substantive opposition, and denying 24 motion for default judgment). This is because “[i]t is the party’s burden to demonstrate to the 25 Court that under the pertinent law, the plaintiff’s claims, as alleged, are legally sufficient.” *S.A. 26 ex rel. L.A.*, 2009 WL 1953462, at *3; see also *Surtain v. Hamlin Terrace Found.*, 789 F.3d 1239, 27 1245 (11th Cir. 2015) (a sufficient basis for default judgment is “akin to that necessary to survive 28 a motion to dismiss for failure to state a claim”); *Nat’l Auto Grp., Inc. v. Van Devere, Inc.*, 2022 1 | WL 80324, at *2 (N.D. Ohio Jan. 7, 2022); *IOU Cent., Inc. v. Kailani Tours Hawaii, LLC*, 2021 2 | WL 806340, at *2 (N.D. Ga. Feb. 24, 2021) (“A plaintiffs burden at the default judgment stage is 3 || ‘akin to that necessary to survive a motion to dismiss for failure to state a claim.’” (quoting 4 | *Surtain*, 789 F.3d at 1245)); *Garcia v. Client Resol. Mgmt., LLC*, 2020 WL 2732345, at *3 (S.D. 5 || Fla. May 26, 2020). 6 Here, plaintiff’s motion is deficient. Plaintiff provides no legal analysis, no argument, and 7 || no legal authority in the motion. The law governing motions for default judgment is well- 8 | established and plaintiffs counsel is presumably well aware of the consistently cited and applied 9 | *Eitel* factors. See *Eitel*, 782 F.2d at 1471-72. Plaintiff has failed to carry her burden. See *S.A. ex 10 | rel. L.A.*, 2009 WL 1953462, at *3; *Nat’l Auto Grp.*, 2022 WL 80324, at *2; *IOU Cent.*, 2021 11 | WL 806340, at *2; *Garcia*, 2020 WL 2732345, at *3. The Court therefore denies Plaintiff’s 12 || deficient motion for default judgment without prejudice.

13 | IV. CONCLUSION

14 For the reasons set forth above, it is HEREBY ORDERED that plaintiffs motion for 15 || default judgment (ECF No. 9) is DENIED. 16 | Dated: December 15, 2025 / ae □□ / a Ly a

18 UNITED STATES MAGISTRATE JUDGE

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