

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Warner v. Delano

No. 21-cv-05666-HSG (N.D. Cal. Mar. 1, 2023) · No. 21-cv-05666-HSG · Decided March 1, 2023

SUMMARY

The court denied the plaintiff’s motion for default judgment in an action alleging disability discrimination under the Americans with Disabilities Act and California’s Unruh Civil Rights Act. Although the court adopted the magistrate judge’s recommended disposition on different grounds, it concluded that the record did not establish proper service of the amended complaint. The plaintiff was directed to complete proper service or amend the proof of service within 21 days, subject to dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Haywood S. Gilliam, Jr.
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 1, 2023
DOCKET	21-cv-05666-HSG
DISPOSITION	denied
PROCEDURAL POSTURE	Plaintiff moved for default judgment after the Clerk entered default against Defendant. The district court reviewed and adopted a magistrate judge's report and recommendation, but denied default judgment on the independent ground that the record did not establish proper service of process.
STANDARD OF REVIEW	A motion for default judgment is committed to the district court's discretion. The court must independently examine its subject-matter jurisdiction and whether service of process was proper, and it accepts only well-pleaded factual allegations as true.
PRECEDENTIAL VALUE	Unknown; unpublished district court order
PARTIES	Wade Warner v. Dennis Delano

TOPICS

default judgment

service of process

default

civil procedure

ada / disability

PRACTICE AREAS

civil procedure

default judgment

service of process

disability discrimination

QUESTIONS PRESENTED

1. Whether default judgment should be entered after the Clerk entered default.
2. Whether the record established that Delano was properly served with the amended complaint under Federal Rule of Civil Procedure 4(e) and California law.
3. Whether the Court should direct Plaintiff to complete proper service or amend the proof of service and warn that failure to do so would result in dismissal without prejudice under Rule 4(m).

HOLDINGS

1. The Court denied Plaintiff's motion for default judgment because the record did not establish proper service of the amended complaint.
2. A district court has discretion to deny default judgment, and default judgments are generally disfavored.
3. The proof of service was insufficient to establish substituted service because it did not show delivery to a person apparently in charge who was at least eighteen years old or subsequent mailing of the summons and complaint.

KEY QUOTATIONS

“default judgments are generally disfavored” (at 2)

“Plaintiff is further DIRECTED to complete proper service on Defendant—or amend the proof of service with sufficient detail to establish proper service—within 21 days of this order.” (at 4)

FACTUAL BACKGROUND

Warner alleged that Fairfax Market, operated by Delano, denied him access in April 2021 because he was not wearing a mask. He alleged that severe anxiety constituted a disability, that wearing a mask exacerbated his condition, and that he offered a written medical exemption. Warner further alleged that store staff did not offer an alternative accommodation, such as having someone shop for him. He sought ADA injunctive relief, statutory damages under the Unruh Civil Rights Act, and attorney fees and costs.

PROCEDURAL HISTORY

Warner filed the action in July 2021. After the Court granted Delano's motion to dismiss with leave to amend, Warner filed an amended complaint in December 2021. When Delano did not respond, Warner obtained entry of default and moved for default judgment. Magistrate Judge Kim recommended denial for failure to state a claim; the district court adopted the recommended disposition on different grounds, finding insufficient evidence of proper service and directing Warner to complete service or amend the proof of service.

DISPOSITION

denied

CASES CITED

- Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980)
- Pena v. Seguros La Comercial, S.A., 770 F.2d 811, 814 (9th Cir. 1985)
- DIRECTV, Inc. v. Hoa Huynh, 503 F.3d 847, 854 (9th Cir. 2007)
- Craigslist, Inc. v. Naturemarket, Inc., 694 F. Supp. 2d 1039, 1054 (N.D. Cal. 2010)
- Mason v. Genisco Tech. Corp., 960 F.2d 849, 851 (9th Cir. 1992)

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