**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS**

**Civil Action No. 3:22-CV-9**



**JOE BLESSETT**
**Plaintiff**

**V**

**TEXAS ET AL.**
**Defendants**

## Objection to Court Decision for Sinkin Law Firm

Plaintiff wishes to clarify his intentions as per the April 6, 2022, conference concerning Rule 55 default judgment against Sinkin Law Firm and Texas Defendants' recognition of the private administrative process as a discovery mechanism with a stipulated agreement.

Service of summons, certificate of service Dkt. #25 was executed on Sinkin Law Firm on January 20, 2022, with an answer due February 10. 2022. Twelve days later, Plaintiff entered a motion for Entry of Default Dkt. #44 against Sinkin Law Firm on February 22, 2022. As of February 22, 2022, Sinkin Law firm had not entered "*Appearance of Counsel*" and could show intent to defend on the merits. Under Rule 55, Plaintiff is entitled to a default judgment on the case's merits. Defendant failed to plead or otherwise defend and give notice as Attorney of Record before Plaintiff's entry under Rule 55(a). Under local court rule and Federal Rules of Civil Procedure, the Defendant cannot show intent to defend after the fact. In ***Bass v Hoagland U.S. 5th cir. Court 1949,*** "*the defendant counsel appeared and filed an answer to the merits. Although counsel later withdrew from the case, he did not withdraw the appearance.*" The critical issue is that counsel for Sinkin Law Firm never made an appearance on the record forfeiting rights to plead under Federal Rule 12(a)(A)(i), substantive law, and the timing of the appearance of counsel grants the defense the right to plead to the default judgment.

Rule 55(a) authorizes the clerk to enter a default "*When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules.*" The rules require that the Defendant file a sufficient answer to the merits and *have a lawyer present*. Sinkin Law Firm could not comply with local court rule six without an attorney of record presenting a valid response to the merits.

American jurisprudence disfavors default judgments[1]. Federal circuits take one of two approaches. The first approach does not permit a Rule 55(a) default judgment against a party if that party has either (1) pled or (2) otherwise defended. The other approach does permit a Rule 55(a) default judgment if a party does one of those actions (pleads or otherwise defends) but not the other. According to one Federal Procedure scholar: *"The words 'otherwise defend' refer to the interposition of various challenges to such matters as service, venue, and the sufficiency of the prior pleading, any of which might prevent a default if pursued in the absence of a responsive pleading.* ***10A CHARLES ALAN***

[1] U.S. Fid. & Guar. Co. v. Petroleo Brasileiro S.A., 220 F.R.D. 404, 406 (S.D.N.Y. 2004) ("The determination of whether to grant a motion for default judgment is within the sound discretion of the district court. However, '[i]t is well established that default judgments are disfavored. A clear preference exists for cases to be adjudicated on the merits.'" (alteration in original) (citations omitted) (quoting Pecarsky v. Galaxiworld.com Ltd., 249 F.3d 167, 174 (2d Cir. 2001))); United States v. Gant, 268 F. Supp. 2d 29, 32 (D.D.C. 2003) ("Because courts strongly favor resolution of disputes on their merits, and because it seems inherently unfair to use the court's power to enter judgment as a penalty for filing delays, default judgments are not favored by modern courts. Accordingly, default judgment usually is available only when the adversary process has been halted because of an essentially unresponsive party[, as] the diligent party must be protected lest he be faced with interminable delay and continued uncertainty as to his rights." (alteration in original) (citation omitted) (internal quotation marks omitted)); 10 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 55.02 (3d ed. 2012) ("In considering how courts deal with defaults and default judgments, one must be aware of the conflicting principles at play with default. On the one hand, default promotes efficient administration of justice by requiring a responding party to conform with the requirements set out in the Federal Rules in a timely fashion. Rule 55 provides a mechanism to deal with a party against whom affirmative relief is sought who does nothing or very little to respond to the complaint. . . .On the other hand, there is a strong desire to decide cases on the merits rather than on procedural violations. For this reason, most courts traditionally disfavor the entry of a default judgment. This is a reflection of the oft-stated preference for resolving disputes on the merits.").

***WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE: CIVIL § 2681, at 8 (3d ed. 1998)***

Stett Jacoby could not defend Sinkin Law Firm before February 23, 2022, under Rule 11(a). Every pleading, written motion, and other paper must be signed by at least one *attorney of record* in the attorney's name—or by a party personally if the party is unrepresented. Up until February 23, 2022, Sinkin Law Firm Dkt. #46 did not have an Attorney or Person of record for this civil action. Local court rule six allows a letter on time for Rule 12 (a) for filing answers. Local Rule Six does not allow for the absence of Rule 11(a) attorney of record. The dates make it impossible for Stett Jacoby to be the Attorney of record to file a timely answer. Although the civil case is replete with allegations of Defendant's violation of the Plaintiff's civil procedure protections, Plaintiff is concerned with the contradiction of several Federal Rules for Jurisprudence in the denial of default against Sinkin Law Firm. Rule 12(c) specifies that a party must serve a reply to an answer within 21 days after being served with an order to reply unless the order specifies a different time. The local rule specifies another method, not the time to respond.

As Pro se litigant, most Americans would assume the courts will apply the rules as they are written. Plaintiff filed and federal suit on January 7, 2022, with Sinkin law firm as one of the defendants. On January 8, 2022, Plaintiff contracted a third-party process server to deliver the summon to all defendants. Plaintiff delivered proof of service to the court clerk on the defendants. All the other Defendant's Attorneys responded with a notice of Attorney for the court record before the (21) Twenty-one-day deadline to answer the summons except Sinkin Law Firm. Despite recorded evidence with the federal district court, the Sinkin Law Firm's Attorney appeared (13) days after the deadline. Sinkin Law Firm filed an answer one day after Mr. Blessett applied Rule 55a for default entry. What was Sinkin Law Firm's good cause excuse to avoid the Rules? Mr. Blessett's contractor served a summons on Antony Blinken, Xavier Becerra, Greg Abbott, Ken Paxton, City of Galveston, Texas, Texas Department of Public Safety, Texas Office of

Attorney General Office Child Support Division, U.S. Department of State, U.S. Department of Health and Human Services, and the United States. Mr. Blessett has used this process server service for four years and never had a problem. However, Sinkin Law Firm has a problem following the rules of law alleged in the federal complaint. Federal Rules of Civil Procedures (Rules) are set to provide a specified outcome under the Rules.

1. Federal 12a is a twenty-one-day deadline rule to respond to Blessett's summons for legal action.
2. Federal Rule 11a requires an *"Attorney of Record"* signature on a legal response or pleading before the deadline. Sinkin Law Firm affirmed its appearance on February 23, 2022. Sinkin Law Firm's (21) twenty-one-day deadline was February 10, 2022.
3. Local Court Rule (6) six allows alternative methods to answer the summons, but the Rule 12a deadline remains twenty-one days, and no alternative allowances are made for Rule 11a. No litigant or any U.S. Court has a legal obligation to honor any signed or unsigned response or pleading by an Attorney not on the record with the court representing another litigant involved in the case.
4. If Defendant's attorney didn't register notice of appearance with the Clerk of the Court or appear in person before the court before the deadline. Defendant defaults under Rule 55a. *To defend on the merits, you have to make your intentions known in accordance with the Rules. There are no known formal intentions to defend on the merits or appearance of the Defendant or counsel in accordance with the Federal Rules of Civil Procedure 11a* ***attorney of record*** *before the deadline.*
5. Under Rule 55c, Defendant is given an opportunity under Rule 60b to overturn the default with good cause.

Plaintiff rejects the court's acceptance of Sinkin Law Firm without penalties for failure to follow the *Federal Rules of Civil Procedure. On April 6, 2022, the court's decision to allow Sinkin Law Firm extension to file a motion to dismiss defies logic and*

*the rules of law. These are street rules, with an unequal application of law and no consideration for the injured party.*

As the Supreme Court has noted, where a *plaintiff's complaint against state defendants alleges a continuing violation or the imminence of a future violation, a prayer for injunctive relief satisfies redressability.* ***Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 108, 118 S.Ct. 1003, 1019, 140 L.Ed.2d 210 (1998), NiGen Biotech, LLC v. Paxton, 804 F. 3d 389 - Court of Appeals, 5th Circuit 2015.*** *Ex parte Young doctrine only reaches alleged violations of federal law.* ***McKinley v. Abbott, 643 F.3d 403, 406 (5th Cir. 2011); see also Pennhurst State Sch. & Hosp., 465 U.S. at 106, 104 S.Ct. at 911.*** *A prerequisite of Ex parte Young is that "the relief sought must be declaratory or injunctive in nature and prospective in effect."* ***Saltz v. Tenn. Dep't of Emp't Sec., 976 F.2d 966, 968 (5th Cir.1992).*** Plaintiff alleges an "ongoing violation of federal law," exposing the Texas Title IV-D program's noncompliance with the federal statutes and the infringement of the Plaintiff's right to maintain federal enforcement without standing. *It is true that a complaint must allege that the Defendant is violating federal law, not simply that the Defendant has done so.* ***See Green v. Mansour, 474 U.S. 64, 71-73, 106 S.Ct. 423, 427-29, 88 L.Ed.2d 371 (1985).*** It is the defendants' inaction after the problem has been brought to their attention. It is the illegal restraints on Plaintiff's liberties, freedoms, and immunities under Title IV-D without standing.

Plaintiff presented evidence of a private administrative action against Greg Abbot, Ken Paxton, and Steven C Mc Craw. The defendants were made aware of the wrongdoing under a state-run federal program. Plaintiff requested the documents required under 42 U.S.C. 654(12) for the Texas Governor's Office, Office of Attorney General Office Child Support Enforcement Division, and the Texas Department of Public Safety to comply with the federal program and protect the Plaintiff's rights. Plaintiff established a private right to sue under parallel noncompliance under Title IV-D. The defendants were allowed to answer the administrative process and avoid the stipulated penalty.

Plaintiff's private agreement with the defendants stands separate from the state as a private contract between Greg Abbott, Ken Paxton, and Steven Mc Craw. **Nowhere in the language of the private contract is the state of Texas held liable. The Defendants' failure to act in the presence of wrongdoing by not stopping the infringement of JOSEPH C BLESSETT's U.S. Constitution protections removed the state's liability for their actions and loss of immunity for failure to maintain their oath of office.**

Blessett has alleged under Rule 8a that he owes no money to the state Title IV-D agency and provides the court with a contract that excludes Title IV-D. Plaintiff has presented the court with evidence of the ongoing infringement and deprivation of rights. Tacit knowledge with failure to act to remedy injuries is an ongoing violation of the U.S. Constitution. In contract law, contract infringement by Title IV-D as a third-party debt collector. It is a continuous injury until the infringement by the defendants is cured.

**Conclusion**

Plaintiff has considered these matters in accordance with the Rules and U.S 5th Circuit Court legal opinions regarding the issues. Plaintiff believes the principles that favor a default judgment against Sinkin Law Firm and subject matter jurisdiction as a public matter with ongoing federal penalties enforced under the color of law. The Defendants know of this fact. The private monetary obligations In the "Certificate of Non-Response" are private contracts with private persons. Any other explanation is a lie or misrepresentation of the truth.

4/8/2022

Date

Joe Blessett
Pro Se
**7970 Fredericksburg Rd. STE. 101-708**
**San Antonio, Texas 78229**
**joe@joeblessett.com**
Ph.281-667-1174