

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

No. 2:20-cv-08985-ODW (DFMx) Date March 26, 2021

Title *Securities and Exchange Commission v. Patrick Jevon Johnson et al.*

Present: The Honorable Otis D. Wright, II, United States District Judge

Sheila English

Not reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not present

Not present

Proceedings:

In Chambers

Plaintiff moves for Entry of Default Judgment against Defendant NVC Fund, LLC. (Mot. Default J. (“Motion” or “Mot.”), ECF No. 60.) After considering the papers filed in connection with the Motion, the Court deems this matter appropriate for decision without oral argument and **VACATES** the hearing set for April 5, 2021. *See* Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

NVC Fund is not the only defendant in this action, and pro se Defendants Patrick Jevon Johnson and Charles Everett have filed Answers to the Complaint. (*See* Everett Answer, ECF No. 32; Johnson Answer, ECF No. 37.) Judgment against fewer than all defendants may be entered “only if the court expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). In such cases, “default judgment should not be entered when the remaining defendants who are litigating the action are ‘similarly situated, even if not jointly and severally liable,’ since it would be ‘incongruous’ to enter judgment against a defaulting defendant if the answering defendant ultimately shows that the plaintiff[’]s claim lacks merit.” *Lopez v. Eng*, No. LA CV18-10022 JAK (RAOx), 2020 WL 8413525, at *1 (C.D. Cal. Oct. 9, 2020) (quoting *In re First T.D. & Inv., Inc.*, 253 F.3d 520, 532–33 (9th Cir. 2001)).

Here, it appears that NVC Fund, Johnson, and Everett are similarly situated, as Plaintiff asserts they each violated federal securities laws through the same fraudulent scheme. (*See* Compl. ¶¶ 10–11, ECF No. 1.) Consequently, the Court cannot conclude there is no just cause for delay. Therefore, pursuant to Rule 54(b), Plaintiff’s Motion (ECF No. 60) is **DENIED**, without prejudice, as premature.

IT IS SO ORDERED.

Initials of Preparer SE : 00