

IN THE UTAH COURT OF APPEALS

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Bonneville Billing & Collections,)	MEMORANDUM DECISION
)	(Not For Official Publication)
)	
Plaintiff and Appellee,)	Case No. 20070153-CA
)	
v.)	F I L E D
)	(January 31, 2008)
Jared Wall,)	
)	2008 UT App 35
Defendant and Appellant.)	

Second District, Layton Department, 060603573
The Honorable John R. Morris

Attorneys: Jared Wall, Kaysville, Appellant Pro Se
 Kevin P. Sullivan, Ogden, for Appellee

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Jared Wall appeals the district court's order striking his answer and entering a default judgment against him. We reverse.

Rule 16(d) of the Utah Rules of Civil Procedure grants discretion to the district court to impose sanctions for, among other things, a party's failure to appear at a pretrial conference. See Utah R. Civ. P. 16(d). These sanctions may include striking pleadings or rendering a default judgment. See id. (referencing rule 37(b)(2)(C) of the Utah Rules of Civil Procedure). However, the order must be just. See id. The Utah Supreme Court analyzed default judgments, as applied to discovery sanctions, in Carmen v. Slavens, 546 P.2d 601, 602-03 (Utah 1976). The supreme court stated that while a district court has discretion to impose the sanction of its choice, "the meaning of the term 'discretion' itself imports that the action should be taken within reason and good conscience in the interest of protecting the rights of both parties and serving the ends of justice." Id. at 603. Further, "[i]t has always been the policy of our law to resolve doubts in favor of permitting parties to have their day in court on the merits of the controversy." Id.

In the present case, the district court abused its discretion in striking Wall's answer and entering a default judgment. Even assuming Wall received the notice of the pretrial mediation conference and did not attend, there are no findings indicating that Wall's actions were willful, or were part of a series of other actions indicating that Wall was not respectful of the district court's orders. In fact, this pretrial mediation appears to be the first court appearance at which Wall was supposed to have appeared in this case. Mindful of the supreme court's admonition that our policy is to resolve doubts in favor of permitting parties to have their day in court, we do not believe that the particular circumstances of this case warranted the sanction imposed.

The default judgment is reversed and the case is remanded for further proceedings.

Russell W. Bench, Judge

Gregory K. Orme, Judge

I DISSENT:

William A. Thorne Jr.,
Associate Presiding Judge