

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTURY SURETY COMPANY,

Plaintiff,

v.

ISAAC K. KASHAMA, *et al.*,

Defendants.

No. C-11-5482 EMC

**ORDER RE SUPPLEMENTAL
BRIEFING**

(Docket No. 35)

Plaintiff Century Surety Company has filed suit against Defendants Osman Othman and Isaac K. Kashama. The claims against Mr. Othman are currently subject to a bankruptcy stay. After Mr. Kashama failed to respond to the complaint, the Clerk of the Court entered his default on May 25, 2012. *See* Docket No. 33 (notice). Century has now filed a motion for default judgment against Mr. Kashama. Having reviewed the motion and accompanying submissions, the Court hereby orders Century to provide supplemental briefing on the following issues.

(1) Whether a default judgment against Mr. Kashama should be deferred pursuant to *Frow v. De La Vega*, 82 U.S. 552 (1872), in which the Supreme Court held that, under certain circumstances, a court should not enter a default judgment against one or more defendants which is, or likely to be, inconsistent with judgment on the merits in favor of the remaining answering defendants. *See, e.g., Shanghai Auto. Instrument Co. v. Kuei*, 194 F. Supp. 2d 995, 1006 (N.D. Cal. 2001) (report and recommendation) (noting that courts, “including the Ninth Circuit, have held that *Frow* is not limited to claims asserting joint liability, but extend to certain circumstances in which the defendants have closely related defenses or are otherwise similarly situated”).

1 (2) Whether Century’s request for a declaration that no party (i.e., persons other than Mr.
2 Kashama) may sue Century on the insurance policy pursuant to the “Legal Action Against Us”
3 clause is ripe for review.

4 **The supplemental briefing shall be filed by July 23, 2012.**

5 Century shall serve a copy of this order on Mr. Kashama within three days of the date of this
6 order and shall file a proof of service on that same date certifying that service of process has been
7 effected.

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9 **IT IS SO ORDERED.**

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11 Dated: July 16, 2012



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EDWARD M. CHEN
United States District Judge