

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

AMERICAN SAFETY LLC

CIVIL ACTION

VERSUS

CASE NO. 20-3451

HAROLD ALGER et al.

SECTION: "G"(1)

ORDER AND REASONS

On February 15, 2021, Plaintiff American Safety LLC ("Plaintiff") moved for an Entry of Default against Defendants Global Resource Broker, Inc.; Seneca Mortgage Services, LLC; Harold Alger; Bauer & Bauer, LLC; Sam Bauer; and Rodney Clements.¹ The Clerk of Court entered the default on February 22, 2021.² On March 10, 2021, Plaintiff filed a Motion for Default Judgment, requesting that the Court enter judgment against Defendants Global Resource Broker, Inc.; Seneca Mortgage Services, LLC; Harold Alger; Bauer & Bauer, LLC; Sam Bauer; and Rodney Clements pursuant to Federal Rule of Civil Procedure 55(b).³ The Court subsequently vacated the entry of default as to Harold Alger and Sam Bauer.⁴

In *Frow v. De La Vega*, the United States Supreme Court held that when one of several defendants who is alleged to be jointly liable is in default, default judgment should not be entered against the defendant until the matter has been adjudicated with regard to all defendants or all defendants have defaulted.⁵ Courts have routinely withheld from entering a default

¹ Rec. Doc. 27.

² Rec. Doc. 28.

³ Rec. Doc. 29.

⁴ Rec. Docs 45; 49.

⁵ *Frow v. De La Vega*, 82 U.S. 552 (1872); *see also* 10A Charles Alan Wright & Arthur R. Miller, Federal

judgment in multiple defendant cases when such entry could result in inconsistent judgments among all of the defendants.⁶

In addition to the defendants identified in Plaintiff's Motion for Default Judgment, Plaintiff has also brought claims against Defendants Adam Russell; Stephen Fox, S Fox Law Group PC; Associated Foreign Exchange, Inc.; One Stone Auto, LLC; One Stone Auto & Trucking Rental Corp.; Transcroop Trading, LLC; JV Doren BV, LLC; Vere Whyte; and ABC Insurance Company.⁷ In the Complaint, Plaintiff alleges that all defendants are liable for fraud, violation of the Louisiana Unfair Trade Practices Act, and conspiracy.⁸ Further, Plaintiff alleges that "[a]ll Defendants owe [Plaintiff] all damages available to it, including pre and post judgment interest, attorneys' fees and costs, treble damages, and punitive damages *in solido* as provided by law."⁹ Therefore, an entry of default judgment against Defendants Global Resource Broker, Inc.; Seneca Mortgage Services, LLC; Bauer & Bauer, LLC; Sam Bauer; and Rodney Clements at the present time may result in inconsistent judgments among all defendants in this litigation. Accordingly,

Practice & Procedure § 2690 (4th ed. 2018) ("As a general rule, when one of several defendants who is alleged to be jointly liable defaults, judgments should not be entered against him until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted.") (citing *Frow*, 82 U.S. 552).

⁶ See *Esterlin v. Munster*, Case No. 14-1528 (E.D. La. Oct. 31, 2014) (Brown, J.) (denying an entry of default judgment when entering default judgment could result in inconsistent rulings and judgments among the defendants); *Williams v. Association De Prevoyance Interentreprises*, Case No. 11-1664 (E.D. La. Nov. 30, 2012) (Brown, J.); *United Nat'l Ins. Co. v. Paul and Mark's Inc.*, Case No. 10-799 (E.D. La. Feb. 3, 2011) (Lemelle, J.); *Mason v. N. Am. Life and Cas. Co.*, Case No. 94-1139 (E.D. La. Nov. 15, 1995) (Carr, J.) ("The Court declines to enter judgment against a defaulting defendant when such a judgment would require resolution of issues of law to the detriment of a defendant who has answered but has not been heard on the merits.").

⁷ Rec. Doc. 1 at 2–4.

⁸ *Id.* at 11–17.

⁹ *Id.* at 17.

IT IS HEREBY ORDERED that Plaintiff American Safety LLC's Motion for Default Judgment¹⁰ is **DENIED WITHOUT PREJUDICE**.

NEW ORLEANS, LOUISIANA, this 18th day of May, 2021.

Nannette Jolvette Brown

NANNETTE JOLVETTE BROWN
CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹⁰ Rec. Doc. 29.