

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 MILTON O. CRAWFORD,)
4)
5 Plaintiff,)
6 vs.)
7 SMITH'S FOOD AND DRUG STORE, INC.,)
8 et al.,)
9 Defendants.)

Case No.: 2:12-cv-00122-GMN-GWF

ORDER

10 Pending before the Court are Plaintiff Milton O. Crawford's ("Plaintiff's") Motion for
11 Leave to File Request for Judgment ("Motion for Judgment"), (ECF No. 298), Motion for
12 Leave to File Certificate of Service as to Affidavit, (ECF No. 299), regarding his Motion for
13 Judgment, Motion for Leave to File Server Affidavit of Service, (ECF No. 301), regarding his
14 Motion for Judgment, and Motion for Leave to File Certificate of Service, (ECF No. 302), to
15 his Motion for Judgment.

16 Plaintiff's Motion for Judgment requests leave to file a motion for the Clerk of Court to
17 enter default judgment against Defendant Kroger Co. ("Kroger") for failing to appear. (Mot.
18 Leave to File Request for Judgment 2:2-7, ECF No. 298). Not only has Kroger made
19 numerous appearances in this case, but the Court also issued an Order, (ECF No. 141), granting
20 Kroger's Motion to Dismiss, (ECF No. 71), Plaintiff's claims against it with prejudice.

21 The Court denies Plaintiff's Motion for Judgment. Under Federal Rule of Civil
22 Procedure 55(b)(1), clerk's entry of default is proper only if the defendant has not made an
23 appearance. Because Kroger has appeared in this action, and given that the Court has
24 dismissed Plaintiff's claims against Kroger with prejudice, clerk's entry of default would be
25 improper.

1 Since the Court denies Plaintiff's Motion for Judgment, the Court denies as moot
2 Plaintiff's remaining Motions. The remaining Motions request leave to file necessary papers
3 associated with Plaintiff's Motion for Judgment. In light of the Court's denial of Plaintiff's
4 Motion for Judgment, Plaintiff need not make the associated filings.

5 Accordingly,

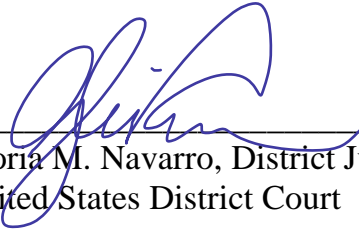
6 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to File Request for
7 Judgment, (ECF No. 298), is **DENIED**.

8 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to File Certificate of
9 Service as to Affidavit, (ECF No. 299), is **DENIED as moot**.

10 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to File Server Affidavit
11 of Service, (ECF No. 301), is **DENIED as moot**.

12 **IT IS FURTHER ORDERED**, that Plaintiff's Motion for Leave to File Certificate of
13 Service, (ECF No. 302), is **DENIED as moot**.

14 **DATED** this 7 day of October, 2019.

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Gloria M. Navarro, District Judge
United States District Court