

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

JEFFREY LOMAS, et al.,

Plaintiffs,

vs.

JAMES MORRIS, et al.,

Defendants.

Date: January 21, 1993

MINUTES OF COURT

CV-N-91-164-ECR

JAN 22 1 17 PM '93

CAROL C. FITZGERALD
CLERK

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MINUTES OF HEARING DEFENDANT'S MOTION TO SET ASIDE DEFAULT (#15):

Counsel for Defendant(s) _____ HENRY C. MARTILLARO

Counsel for Plaintiff(s) _____ E. SUE SAUNDERS

Deputy clerk: COLLEEN MORZ Reporter RON CAUGHRON-FIANNIGAN

PRESENT: EDWARD C. REED, JR., U. S. DISTRICT JUDGE

At 2:05 P. M. Court convenes.
Opening argument is presented by counsel for defendant.
At 2:20 P. M. Court recesses.
At 2:30 P. M. Court reconvenes.
Further arguments are presented by respective counsel.
At 3:30 P. M. Court recesses.
At 5:10 P. M. Court reconvenes.

The court makes its findings for the record.

IT IS ORDERED that defendant's motion to set aside the default, as to defendant Don Morris individually is concerned, is DENIED.
IT IS FURTHER ORDERED that the motion, as to the defendant corporation Bullion Monarch Co., is GRANTED. The default and default judgment are hereby set aside as to this defendant and service of process is quashed.

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The court finds that the presence of the individuals Davis, Queen and Owens in the case does not destroy diversity; therefore, the motion to set aside the default on that basis is DENIED.

IT IS FURTHER ORDERED that the motion to set aside default and for dismissal of the complaint on the basis that the jurisdictional amount is not met is DENIED.

IT IS FURTHER ORDERED that the motion to set aside default and for dismissal of the complaint on the basis of Doe defendants is DENIED. The court DISMISSES the Doe defendants.

IT IS FURTHER ORDERED that the sanctions requested by both sides are DENIED.

IT IS FURTHER ORDERED, that after hearing the arguments of counsel and the court having sua sponte raised this issue during this hearing, the judgment and the default against defendant Don Morris are VACATED pursuant to Rule 60(b)(1) on account of mistake, inadvertence, surprise or excusable neglect.

IT IS FURTHER ORDERED that the motion to dismiss the complaint is DENIED as a general proposition.

IT IS FURTHER ORDERED that a new scheduling order will be issued by the clerk. Defendant Don Morris shall have twenty (20) days from this date within which to answer or otherwise respond to the complaint. The plaintiff will have to look to endeavoring to serve the defendant corporation again.

At 5:45 P. M. Court recesses.



CERTIFIED TO BE A TRUE COPY
Clerk, United States District Court
By *[Signature]*
Deputy Clerk

CAROL C. FITZGERALD, CLERK
By *[Signature]*
COLLEEN MORZ
Deputy

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OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
[Signature]
95 AUG 18 AM 11:56

EUREKA COUNTY NEVADA
M.N. REBALAATI, RECORDER
FILE NO. *[illegible]*
FEES \$ 8.00

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