

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON

3 George DC Parker II, and

4 Lori A Parker,

5 Plaintiff(s),

6 v.

Case No. 3:23-cv-05069-RJB

7 THE SOCIETY FOR CREATIVE :
8 ANACHRONISM, INC., a/k/a/ "SCA" :
9 or "SCA, Inc.", et.al,

Defendant(s).

OPPOSITION TO MOTION
TO VACATE DEFAULT
JUDGMENT

10 Plaintiffs George DC Parker II, and Lori A Parker, appearing Pro Se, submit this
11 Opposition to the Defendants pending Motion to Vacate Default Judgment, and hereby
12 request this Court to deny the defendant's motion to vacate default judgment based on
13 the following:

14 Plaintiffs filed their complaint on January 25, 2023, and received approval to
15 proceed in forma pauperis on April 17, 2023. DKT. 8.

16 Plaintiff's Complaint was entered on April 17, 2023. DKT. 9.

17 Plaintiffs filed their Affidavit of Service of Summon that was effected on April 23,
18 2023. DKT. 15.

19 The SCA answer to the complaint was due 20 days later, no later than May 15,
20 2023.

21 Plaintiffs brought their motion for default judgment on May 16, 2023. DKT. 16.
The clerk entered Default against SCA by minute entry on May 18, 2023. DKT. 18.

1 Plaintiffs submitted the Unsigned (Proposed) Order for Default Judgment on May
2 19, 2023 (DKT 19).

3 Defendants filed a Notice of Appearance on May 19, 2023 (DKT 20).

4
5 **I. ARGUMENT**

- 6 1. Plaintiff's Process Server statement (Exhibit A) shows that the Defendant's
7 agent was in fact served in accordance with rule 55(2)(b).
- 8 2. Defendants claim that they were notified of possible litigation as early as January
9 2023 (DKT 26, ¶2). The complaint was originally filed on January 25, 2023. The
10 declaration states that Plaintiffs "*threatened to file a lawsuit against the SCA if*
11 *they weren't reinstated as members.*" This is a false narrative. On January 17,
12 2023, Plaintiffs provided the SCA with a draft portion of the complaint, and
13 requested that an out-of-court settlement could be reached by simply reinstating
14 Plaintiff George Parker's membership. (See Exhibit D, email) Lori Parker was and
15 continues to be a paid member in good standing (See exhibit B, membership
16 screenshot).
- 17 3. As of February, 2023, Defendants assert that they were aware of the lawsuit
18 having been filed (see DKT 26 ¶2)
- 19 4. Defendants claim the lawsuit was "rejected" by the court in February 2013 (DKT
20 26, ¶2), when in fact, the court allowed Plaintiffs an extension to show cause
21 (DKT 6). There is no signed document on file with this court that suggests that
the lawsuit was rejected.
5. On April 17, 2023 (DKT 8) the court granted the plaintiffs motion to proceed in
forma pauperis.

- 1 6. The complaint was then entered on April 17, 2023 (DKT 9).
- 2 7. Defendants claim they were not informed of the summons until May 14, 2023.
3 However, in the Declaration of Eban Kurtzman (DKT 26, ¶2) it is stated that the
4 Defendants In-House Counsel Eban Kurtzman signed up for a service called
5 "CourtListener " to insure that they would be notified should the lawsuit move
6 forward.
- 7 8. On April 24th, LaToya Johnson contacted Plaintiffs a mere 8 hours following the
8 service of the summons offering a link to the Courtlistener. The link was provided
9 to her by another SCA member, who is unnamed at this time (See Exhibit C,
10 messenger conversation). This shows that CourtListener was updated relatively
11 immediately following the entrance of the complaint into ECF. Plaintiffs contend
12 that Defendants would also have been notified, especially since In-House
13 Counsel Eban Kurtzman specifically noted having signed up for the service (DKT
14 26, ¶2) to track future filings by Plaintiffs.
- 15 9. Mr Kurtzman goes on to say that he was notified on May 14th (through
16 CourtListener) that the case had been filed. He then goes on to say that he was
17 notified on May 16th of the filing. (DKT 26, ¶P3). Mr Kurtzman clearly contradicts
18 himself in this declaration.
- 19 10. Plaintiffs contend that the SCA had ample opportunity and resources, and had
20 indeed taken steps to insure notification of future action on the part of the
21 Plaintiffs. Defendants' claims of a lack of service or faulty service are belied by
their very actions and by the declarations submitted via DKT 25 and DKT 26.
11. Defendants blame CT-Corporation for not updating the corporation's address in a
timely manner as the reason service was delayed, however, the California

1 Corporation website shows the new address clearly (exhibit A). Defendants imply
2 that a whole YEAR has passed with their address not being updated, despite
3 “working with vendors” to update these addresses (DKT 26, ¶3).

4 12. In DKT 24, Section II Statement of Facts, defendants argue the merits of the
5 case. The Defendants attack aspects of the claims made in DKT9, denying the
6 claims, without regard to accuracy. As an example: “*Plaintiffs further claim they*
7 *were not voted in by the SCA population as Baron and Baroness when they*
8 *should have been*” is inaccurate and a false narrative. Such a claim was never
9 made. See DKT 9, ¶28.

10 13. Plaintiffs deny the claim that the SCA lacks culpability. Plaintiffs contend that the
11 SCA willfully ignored the summons. The clerk entered a default judgment on May
12 18, 2023 (DKT 18). Plaintiff's Proposed Order (unsigned) was entered on May
13 19th (DLT 19). Defendants did not submit an appearance until an hour later.

14 14. Plaintiffs have shown above that the Defendants had ample opportunity and
15 resources to be aware of the lawsuit, but in typical SCA fashion, they chose to
16 ignore the situation rather than address it. In their request to vacate the motion
17 (DKT 24) the Defendants put forth lies as facts, as shown above. This shows
18 culpability.

19 15. Rule 60(b)(1), states “*a court may relieve a party of a judgment or order for*
20 *“mistake, inadvertence, surprise or excusable neglect.”* None of these situations
21 apply, as by their own declarations (DKTS 25 & 26) there was no mistake, no
inadvertence, no surprise, and no excusable neglect. There was simply
negligence on the part of the Defendants in answering the summons.

1 16. Section 2 of DKT 24 claims a Meritorious Defense. Plaintiffs are ready and able
2 to prove that the SCA, by virtue of its Governing Documents, including its Code
3 of Conduct, Social Media Policy and Core Values, claims responsibility over its
4 members. Members who fail to follow the policies are threatened with various
5 levels of sanctions, including, but not limited to the revocation and denial of
6 membership. Therefore, Plaintiffs deny this claim.

7 17. Section 2 states: "*Many of Plaintiffs claims as alleged in their complaint occurred*
8 *on Facebook.*" and "*The SCA has no control over what happens on Facebook*
9 *and what conduct Facebook users choose to engage in while on this media*
10 *platform.*" (DKT 24) The SCA has a Social Media Policy in place which governs
11 the actions of its members online. (See exhibit F page 3, *Section II.SCOPE part*
12 *A.(b)*). The SCA revoked Plaintiff George Parker's membership for a comment
13 made on Facebook (See Exhibit G). Therefore, demonstrably, the SCA claims
14 control over the social media activity of its members via its Social Media Policy
15 and other corporate documents. If the SCA has no control over the content
16 posted by its members as claimed by Defendants in DKT 24 , then it should not
17 have revoked George Parker's membership in the first place, thereby proving
18 Plaintiffs claim of unjust removal and of negligence in following its own corporate
19 policy. Therefore, Plaintiffs deny this claim.

20 18. Defendants assert that "*SCA is based on volunteer participation and is not a*
21 *work environment*". US District Courts have rejected the defense that
compensation is required to bring a worker within the employment discrimination
protections of the Act. (Volling v. Antioch Rescue Squad, N.D. IL, No. 11 C
04920, 12/4/12.) Courts have also "...squarely rejected the 'tyranny of labels'

1 advocated by the defendants in brandishing the term ‘volunteer’ as a shield to
2 ward off liability under Title VII [of the civil Rights Act of 1964]”. As such, Hostile
3 Work Environment applies. Therefore, Plaintiffs deny this claim.

4 19. Defendants claim “*Plaintiffs complain they were not voted into the positions of*
5 *Baron and Baroness by the SCA membership. SCA cannot control the manner in*
6 *which its members vote.*” (DKT 24 section II ¶ 2) Such a claim was never made.
7 See DKT 9, ¶ 28. Therefore, Plaintiffs deny this claim.

8 20. Defendants claim that Lori Parker is asking for her membership to be reinstated
9 which implies that she is not a member, however, this claim is also false as
10 shown in (Exhibit B), a screen shot of Defendants own website showing Lori
11 Parker’s membership current and in good standing.

12 21. Plaintiffs contend that RCW 4.16.080(2) does not apply. Cornell Law/LEX defines
13 emotional distress as: “*Emotional distress refers to mental suffering as an*
14 *emotional response to an experience that arises from the effect or memory of a*
15 *particular event, occurrence, pattern of events or condition. Emotional distress*
16 *can usually be discerned from its symptoms (ex. Anxiety, depression, loss of*
17 *ability to perform tasks, or physical illness).*” As there are no physical damages
18 claimed, RCW 4.16.080(2) does not apply. Plaintiffs have ample proof to support
19 their claim of emotional distress which occurred in the several years prior to the
20 removal of Plaintiff George Parker’s membership, which will be provided as
21 appropriate should this matter move forward. Therefore, Plaintiffs deny this claim.

22. Defendants further claim “*Plaintiffs’ complaint appears to be one of allegations*
that SCA violated its own rules, but they have failed to identify what specific rules
were violated or how.” Such arguments would be made if the matter moves

1 forward. Plaintiffs have provided the SCA on several occasions, the policies and
2 procedures violated by the organization via its officers and Board of Directors,
3 and been ignored. Defendants sidestepped responses or simply refused to
4 respond. See Exhibit E for a list including but not limited to, policies violated that
5 Plaintiffs sent to the SCA on or about July 6th, 2022 . Therefore, Plaintiffs deny
6 this claim.

7 23. DKT 24 states *“To be prejudicial, the setting aside of a judgment must result in*
8 *greater harm than simply delaying resolution of the case. Rather, “the standard is*
9 *whether [plaintiffs] ability to pursue his claim will be hindered.”* Defendants quote
10 TCI, 244 F. 3d at 696 wherein it states that to vacate a default judgment such a
11 motion must pass a three factor test, Plaintiffs has shown that defendants have
12 failed to prove factor 1 and 2, therefore, factor 3 is moot.

13 **II. CONCLUSION**

14 The culmination of all the errors enumerated herein, on the part of SCA representatives,
15 and specifically Eben Kurtzman, VP and Du Cray, VP, along with their own attorney
16 misrepresenting the facts of the filing timelines, clearly demonstrates the level of
17 negligence we are alleging in our complaint.

18 Plaintiffs have shown that Defendants have failed to meet the burden necessary for
19 vacating the Default Judgment.

20 Defendants state the 3-factor standard by which a judgment can be overturned.

21 Plaintiffs have shown that Defendants (by their own statements) had knowledge of the

1 lawsuit when it was filed, and failed to take adequate steps to insure timely responses to
2 filings. Defendants admit to In-House counsel having signed on to CourtListener
3 SPECIFICALLY to be notified if Plaintiffs moved forward with a lawsuit.

4 Defendants state that they worked with vendors for a year to update their address,
5 which Plaintiffs have shown was updated on the California Commission website,
6 therefore, Defendants have no reasonable explanation as to why service was delayed.

7
8 Defendant's claim the Plaintiffs lawsuit was "rejected" , when no such rejection was
9 filed. Any attorney, such a Mr. Kurtzman, should be able to differentiate between a case
10 being rejected by the court and an unsigned recommendation to dismiss from a lower
11 court. In-House counsel for Defendants is in a position to be cognizant of court
12 procedures and terminology, and as such, has offered no valid excuse for failing to not
13 only be notified, but act on the lawsuit in a timely fashion. Defendants have a Fiduciary
14 duty to remain informed of court filings on a case in which they (or their clients) are
15 named and which they had every reason to believe would be imminent.

16 Plaintiffs have proven Defendant's culpability in willfully, deliberately or in bad faith
17 failing to answer Plaintiffs' complaint.

18 Defendants claim a meritorious defense, yet Plaintiffs have proven via exhibits, that
19 Defendants claims are false, and that Defendants indeed monitor and control member
20 behavior standards and social media content. Defendants claim that Lori Parker is not
21 a member, Plaintiffs have proven this to also be false (Exhibit B). Plaintiffs have proven

1 that Defendants are attempting to mislead the Court with untrue statements and
2 allegations in an effort to vacate the judgment. As Defendants will sanction members
3 up to and including revoking membership, clearly, Defendants' claim to "lack of
4 responsibility" is proven false.

5 Having failed to meet two (2) of the three (3) standards for showing "Good Cause",
6 Plaintiffs hereby request that the Court DENY defendants Motion to Vacate Default
7 Judgment, and instead GRANT Plaintiffs Motion for Default Judgment.

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10 Dated: May 30, 2023

11 Respectfully submitted,

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14 George DC Parker II, and

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17 Lori A Parker,