

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DENIS MARC AUDET, MICHAEL
PFEIFFER, DEAN ALLEN SHINNERS, and
JASON VARGAS, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

STUART A. FRASER, GAW MINERS, LLC,
and ZENMINER, LLC, (d/b/a ZEN CLOUD),

Defendants.

Case 3:16-cv-00940

Hon. Michael P. Shea
Courtroom 2

ECF Case

CLASS ACTION

FEBRUARY 23, 2017

PLAINTIFFS' MOTION FOR ENTRY OF
DEFAULT ON FIRST AMENDED
COMPLAINT AND FOR EXTENSION OF
DEADLINE TO FILE MOTION FOR
DEFAULT JUDGMENT

Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiffs request that the court order that a new default be entered against Defendants GAW Miners, LLC and ZenMiner, LLC ("Default Defendants"). Plaintiffs request the new default because the clerk entered the current default due to Default Defendants' failure to appear after being served with the Original Complaint. Under Second Circuit case law, in these circumstances a default judgment can only be sought under the First Amended Complaint, not the Original Complaint. An entry of default on the First Amended Complaint is required before default judgment can be sought. Plaintiffs' First Amended Complaint is now the operative pleading. Defendants have not answered. Accordingly, Plaintiffs request an entry of a default based on the Amended Complaint.

Plaintiffs also respectfully request an extension of the deadline to file for default judgment until one week after entry of a default under the Amended Complaint.

Respectfully submitted,

/s/ Mark P. Kindall

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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2017, a copy of foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Mark P. Kindall

CERTIFICATE OF CONFERENCE

I hereby certify that on February 22, 2017, I conferred with counsel for Defendant Stuart Fraser about this motion. On February 23, 2017, counsel for Mr. Fraser represented that Mr. Fraser does not object to this motion.

/s/ Colin M. Watterson*

*(Signed with consent pursuant to § XI(D) of the Electronic Filing Policies & Procedures)