

The below described is **SIGNED**.



Dated: **October 20, 2004**

**JUDITH A. BOULDEN**  
U.S. Bankruptcy Judge



~~DANIEL L. DAY 7502~~

Attorney for Plaintiff  
301 West 5400 South, Suite 104  
Murray, Utah 84107  
Telephone (801) 262-7477

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

FILED  
OCT 20 10 45 AM '04  
CLERK OF COURT  
DISTRICT OF UTAH  
NORTHERN DIVISION

In re:

ETSUKO T. ALLRED

Debtor.

MICHAEL GULBRAA,

Plaintiff,

v.

ETSUKO T. ALLRED,

Defendant.

**ORDER ON PLAINTIFF'S MOTION  
FOR DEFAULT JUDGMENT**

Bankruptcy No.: 02-39852 JAB

Adversary No.: 03P2365 JAB

Judge Judith A. Boulden

Chapter 7

This matter came before the Court on Monday, October 04, 2004 at 3:00 p.m. for the hearing on Plaintiff's Motion for Default Judgment. Plaintiff was present and represented by counsel, Daniel L. Day. Neither Defendant nor an attorney on her behalf was present. Having reviewed the

parties' supporting and opposing memoranda and heard oral argument and being otherwise fully informed and advised in the premises, the Court hereby finds that:

1. The Court has previously informed and warned the Defendant that if she did not comply and cooperate with discovery procedures and this Court's orders, that her Answer may be stricken and default judgment entered against her.

2. The Court has given the Defendant numerous accommodations in the past.

3. In spite of the numerous accommodations made for her and in spite of the Court's orders, Defendant failed to make initial disclosures, failed to respond to Plaintiff's Interrogatories and Requests for Production of Documents and failed to appear at her deposition.

4. Defendant is not entitled to any special consideration or concessions from the Court, and the Court will no longer tolerate the Defendant's defiance of this Court's orders and jurisdiction.

5. Defendant elected this forum for her bankruptcy and must comply with the rules and orders of this Court.

6. It is clear to the Court that the Defendant has a good grasp of the English language, knows what is happening in her case and has vehemently defended her position.

7. Defendant's arguments surrounding initial disclosures—that she will not provide them, depositions—that she will only submit to questioning in Japanese by a certified court translator for

a maximum of one (1) hour , and other discovery matters are simply a continuum of her unceasing defiance of this Court's orders and jurisdiction.

8. Defendant has not filed or requested a protective order regarding discovery matters in this case.

9. Defendant has demonstrated no legitimate concerns regarding the breadth or manner of discovery in this matter.

10. It is clear to the Court based upon Defendant's prior actions and pleadings that she has no intention of ever complying with this Court's orders.

11. It is appropriate under the circumstances and facts of this case that Defendant's Answer be stricken and a default judgment be entered against her.

NOW THEREFORE, by virtue of law, and based upon the merits and the above-enumerated findings, the Court hereby ORDERS that Defendant's Answer in the above-entitled adversary proceeding is stricken and Plaintiff's Motion for Default Judgment is granted. Counsel for Plaintiff is to prepare the Default Judgment.

DATED this \_\_\_\_\_ day of October, 2004.

BY THE COURT

---

Honorable Judith A. Boulden  
United States Bankruptcy Court Judge

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing Order on Plaintiff's Motion for Default Judgment in Bankruptcy Case No.: 02-39852 JAB and Adversary Case No.: 03P2365 JAB to be served by the methods indicated below, postage or delivery fee prepaid, this 7<sup>th</sup> day of October, 2004 to:

Etsuko T. Allred  
Settle-Kasugai No. 602  
2-14-7 Hatta-cho  
Kasugai-shi, Aichi-ken  
Japan 486-0849

- United States Mail
- Federal Express
- Hand Delivery
- Facsimile Transmission
- E-mail Transmission

Cy Castle  
United States Trustee  
9 Exchange Place, Suite 100  
Salt Lake City, Utah 84111

Adam S. Affleck  
PRINCE, YEATES & GELDZAHLER  
Attorneys for Chapter 7 Trustee David L. Gladwell  
175 East 400 South #900  
Salt Lake City, Utah 84111



## CLERK'S CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing to be mailed on the

\_\_\_\_\_ day of October, 2004 to the following:

Etsuko T. Allred  
Settle-Kasugai No. 602  
2-14-7 Hatta-cho  
Kasugai-shi, Aichi-ken  
Japan 486-0849

Cy Castle  
United States Trustee  
9 Exchange Place, Suite 100  
Salt Lake City, Utah 84111

Adam S. Affleck  
PRINCE, YEATES & GELDZAHLER  
Attorneys for Chapter 7 Trustee David L. Gladwell  
175 East 400 South #900  
Salt Lake City, Utah 84111

Daniel L. Day  
Attorney for Michael C. Gulbraa  
301 West 5400 South, Suite 104  
Murray, Utah 84107

---