FOR PUBLICATION

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-10029

RICARDO DEVENGOECHEA,

Plaintiff-Appellee,

versus

BOLIVARIAN REPUBLIC OF VENEZUELA,
a foreign state,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:12-cv-23743-PCH

Before ROSENBAUM, BRANCH, and KIDD, Circuit Judges.

KIDD, Circuit Judge:

We vacate our prior opinion in this case and substitute the following in its place.

Ricardo Devengoechea sued the Bolivarian Republic of Venezuela to recover his collection of Simón Bolívar artifacts that Venezuela allegedly never returned to him. While Devengoechea's lawsuit was pending, Venezuela underwent a regime change, its attorneys withdrew from the case, and it failed to comply with the district court's pretrial orders.

Devengoechea decided not to seek a default judgment under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1608(e). Instead, at Devengoechea's request, the district court tried the case in absentia—that is, without Venezuela's presence. This was improper. The Foreign Sovereign Immunities Act requires courts to follow its default judgment provision, section 1608(e). We have previously held that Federal Rule of Civil Procedure 55 provides the procedural mechanism for courts to implement section 1608(e)'s requirements. Because the district court did not follow section 1608(e) and Rule 55, we vacate the judgment and remand the case to the district court.

I. BACKGROUND

Ricardo Devengoechea lives in Orlando, Florida, and once had a collection of Simón Bolívar artifacts. We described these artifacts and their historical significance the last time this case was before us. *See Devengoechea v. Bolivarian Republic of Venez.* ("*Devengoechea I*"), 889 F.3d 1213, 1216–17 (11th Cir. 2018). According to Devengoechea, officials of the Bolivarian Republic of Venezuela contacted him through his cousin and expressed interest in purchasing the collection. In response, Devengoechea provided the Venezuelan officials with copies of certain items in the collection.

Shortly after, the Venezuelan officials allegedly arranged for a meeting with Devengoechea in Orlando to examine the collection and negotiate its purchase. During this meeting, the officials asked Devengoechea to bring the collection to Venezuela to continue negotiations. The officials and Devengoechea orally agreed to have the collection inspected in Venezuela, and after the inspection, the officials would either purchase the collection or return it to Devengoechea in Orlando.

In Venezuela, the officials informed Devengoechea that they needed more time to examine the collection. So Devengoechea left the collection in Venezuela with the officials and returned to the United States. Ultimately, Venezuela neither paid Devengoechea for the collection nor returned it to him.

Devengoechea sued Venezuela under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 1330(a), 1602–1611, for breach of contract and unjust enrichment. Because Venezuela failed to appear in the case, the clerk entered a default, the district court held a bench trial on damages, and the district court entered a default judgment against Venezuela.

Then Venezuela appeared. At Devengoechea's request, the district court vacated the clerk's default and default judgment, and it allowed Venezuela to respond to the complaint. Venezuela eventually moved to dismiss the operative complaint for lack of subject-matter jurisdiction, among other grounds. The district court denied Venezuela's motion, Venezuela appealed, and we affirmed. *See Devengoechea I*, 889 F.3d at 1217.

On remand, Venezuela filed a motion to dismiss the case on jurisdictional grounds and for summary judgment. While the motion was pending, a regime change occurred in Venezuela, and Venezuela's counsel withdrew from the case. Eventually, the district court denied Venezuela's motion. The district court then set several pretrial deadlines and filing requirements that Venezuela failed to meet. The district court noted that "[t]his alone would [have] be[en] an appropriate ground for granting a default against . . . Venezuela, and a ruling in favor of . . . Devengoechea, on liability." But because Devongoechea "stated he prefer[red] to prove his case," the district court "allowed the matter to proceed to trial on the merits."

Although Devengoechea notified Venezuela of the bench trial date, Venezuela did not appear at trial. Notwithstanding Venezuela's absence at trial, the district court ruled in favor of Devengoechea on the merits and awarded him a $17,128,630.10 judgment. Soon thereafter, counsel for Venezuela appeared again, and this appeal followed.

II. STANDARD OF REVIEW

"We review the district court's grant of a default judgment for abuse of discretion." *Giovanno v. Fabec*, 804 F.3d 1361, 1365 (11th Cir. 2015) (quoting *Sanderford v. Prudential Ins. Co. of Am.*, 902 F.2d 897, 898 (11th Cir. 1990)).

III. DISCUSSION

Venezuela argues that Devengoechea should have proceeded with a default due to Venezuela's absence, "pursuant to the procedural and substantive protections of Rule 55 of the Federal Rules of Civil Procedure and [section] 1608(e) of the FSIA." We agree. Our discussion proceeds in two parts. We first explain why the proper resolution of this case was a default judgment under the FSIA, 28 U.S.C. § 1608(e). Then we explain that Federal Rule of Civil Procedure 55 provides the procedural mechanism to obtain a default judgment under section 1608(e).

A. *Default Judgment Under the FSIA*

"To sue a foreign sovereign in the courts of the United States, plaintiffs must follow the strictures of the Foreign Sovereign Immunities Act of 1976 (FSIA)," which is "the comprehensive statute that . . . supplies the ground rules for obtaining jurisdiction over a foreign state in the courts of this country." *Republic of Hungary v. Simon*, 145 S. Ct. 480, 486, 488 (2025) (citation modified). As the source of jurisdiction, the FSIA "must be applied by the district courts in every action against a foreign sovereign." *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 434–35 (1989) (citation modified).

This case concerns the FSIA's mechanism to obtain a default judgment against a foreign state, 28 U.S.C. § 1608(e):

> No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or

> instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

Like many of the FSIA's provisions, 28 U.S.C. § 1608(e) is modeled after one of the Federal Rules of Civil Procedure. *Compania Interamericana Export-Import, S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948, 951 (11th Cir. 1996) (explaining that "[s]ection 1608(e) is modeled after [Rule 55(d)], which similarly protects the federal government from default judgments based solely upon procedural defaults"); *see* Fed. R. Civ. P. 55 advisory committee's note to 2007 amendment (noting the stylistic changes that renumbered the former Rule 55(e) as Rule 55(d)).

We previously discussed the rationale supporting Rule 55(d) in *Campbell v. Eastland*, 307 F.2d 478, 490–92 (5th Cir. 1962). As we then held, Rule 55(d) is limited to cases of "inaction" because it "rests on the rationale that the taxpayers at large should not be subjected to the cost of a judgment entered as a penalty against a government official which comes as a windfall to the individual litigant." *Campbell*, 307 F.2d at 491. Relying on *Campbell*, we applied Rule 55(d)'s rationale to interpret the FSIA's default judgment provision in *Compania*, where we explained that "Congress intended [section] 1608(e) to provide foreign states protection from unfounded default judgments rendered solely upon a procedural default." 88 F.3d at 950–51.

In *Compania*, the plaintiffs sued Dominicana, an airline corporation wholly owned by the government of the Dominican Republic. *Id.* at 949. Dominicana appeared in the action and responded to the complaint. *Id.* But due to political unrest, management changes, and financial difficulties, Dominicana failed to comply with the district court's orders and its counsel withdrew due to non-payment of legal fees. *Id.* at 949–50. Because of Dominicana's noncompliance, the district court entered default against Dominicana, directed the plaintiffs to file a motion for default judgment, and set a response deadline for Dominicana. *Id.* at 950. Once the plaintiffs moved for default judgment, counsel for Dominicana reappeared to set aside the entry of default. *Id.* Nonetheless, the "district court entered a final default judgment, citing Dominicana's 'failure to obtain . . . counsel and . . . failure to comply with [the] Court's discovery orders.'" *Id.* Dominicana moved for relief from the default judgment, but the district court denied its motion and its motion to set aside the entry of default. *Id.* Dominicana appealed, arguing that the district court abused its discretion in refusing to set aside the entry of default under Rule 55(c) and failed to follow 28 U.S.C. § 1608(e) in entering a default judgment. *Id.*

On appeal, we affirmed the denial of the motion to set aside the entry of default, finding that default was properly entered due to Dominicana's repeated noncompliance with the district court's orders. *Id.* at 952. But we vacated the default judgment because the district court did not consider the "differing standard required by [section] 1608(e) prior to its entry of default judgment against Dominicana." *Id.* at 951. Because "a default judgment governed by [section] 1608(e) must be treated differently than an ordinary default judgment . . . the claimant must 'establish his claim or right to relief,' and must do so by 'evidence satisfactory to the court.'" *Id.* More specifically, the plaintiffs were "required to establish entitlement to relief by providing satisfactory evidence as to each element of the claims upon which relief was sought." *Id.* Since the plaintiffs did not satisfy that requirement, we remanded the case so that the district court could properly apply section 1608(e). *Id.*

Compania governs the outcome here. First, we must adhere to the FSIA because this is an action against a foreign state. *Argentine Republic*, 488 U.S. at 434–35. As in *Compania*, the foreign state —here, Venezuela—appeared in the action below, responded to the complaint, and subsequently failed to comply with the district court's orders. 88 F.3d at 949–50. Once Venezuela failed to comply, it was arguably in default. At that point, to seek relief against Venezuela, Devengoechea should have sought a default judgment under the FSIA.

B. *Procedures To Obtain a Default Judgment Under the FSIA*

The FSIA requires "evidence satisfactory to the court" before entering a default judgment, but it does not otherwise establish a *procedure* for obtaining a default judgment. *Id.* at 950. That is where the Federal Rules of Civil Procedure come into play. *See Compania*, 88 F.3d at 950–52 (discussing Rule 55 in the context of an FSIA default judgment). But importantly, the FSIA does *not* limit the *triggering event* for those procedures in any way. Section 1608(e) governs any circumstance that would trigger a default judgment against a foreign state.

Rule 55 sets forth the process for obtaining a default judgment. First, the district court must enter a party's default upon a triggering event. *See* Fed. R. Civ. P. 55(a). Although Rule 55(a) speaks specifically of a "fail[ure] to plead or otherwise defend," section 1608(e) does not limit default judgments to this triggering event. The purpose of entering the default is to place the defaulting party on formal notice that a triggering event has occurred. *See* Fed. R. Civ. P. 55(c) (authorizing a motion to set aside an entry of default). Additionally, "[a]lthough Rule 55(a) contemplates that entry of default is a ministerial step to be performed by the clerk of court . . . a district judge also possesses the inherent power to enter a default." *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 128 (2d Cir. 2011) (citation modified).

Following the entry of default, a party may seek entry of a default judgment by the clerk, Fed. R. Civ. P. 55(b)(1), or by the district court, Fed. R. Civ. P. 55(b)(2). *See S.E.C. v. Smyth*, 420 F.3d 1225, 1231–32 (11th Cir. 2005) (distinguishing Rule 55(b)(1) and Rule 55(b)(2)). Because Devengoechea's claims were not for a sum certain, Rule 55(b)(2) applies. *See id.* at 1231. It provides, in part, that if the district court intends to hold a hearing and the "party against whom a default judgment is sought has appeared personally or by a representative," that party must receive "written notice of the application" for a default judgment at least seven days before such a hearing. Fed. R. Civ. P. 55(b)(2).

In this case, Venezuela's counsel withdrew, and it did not subsequently comply with the district court's pretrial orders. At that point, Venezuela was likely in default, and if Devengoechea wished to proceed against Venezuela in absentia, he was required to follow Rule 55's procedures for seeking a default judgment. Yet neither the clerk nor the court entered a default under Rule 55(a), and Devengoechea did not apply to the district court for a default judgment under Rule 55(b)(2). Although the record indicates that Devengoechea notified Venezuela of the trial date, Devengoechea failed to provide the notice that Rule 55(b)(2) requires prior to the district court's proceeding to default judgment. Notably, Devengoechea *did* follow Rule 55 in securing an earlier default judgment against Venezuela that he later agreed to vacate.

If Devengoechea had followed Rule 55 once more, Venezuela would have received notice of the potential default at least seven days before any hearing and would have had an opportunity to contest the default judgment. Fed. R. Civ. P. 55(b)(2). While we may harbor doubts about what Venezuela would have done upon receiving such notice, those doubts do not defeat the requirement to provide the notice. *See Compania*, 88 F.3d at 950 (defaulting foreign state reappeared with counsel upon plaintiffs' motion for default judgment to challenge the entry of default and default judgment).

Devengoechea argues that a "[d]efendant who participated pretrial in pleadings, motions, and discovery is not in 'default' for not attending trial." To support this, Devengoechea quotes language from *Solaroll Shade & Shutter Corp., Inc. v. Bio-Energy Systems, Inc.*, 803 F.2d 1130, 1134 (11th Cir. 1986), and *Bass v. Hoagland*, 172 F.2d 205, 210 (5th Cir. 1949). As to *Solaroll*, that case did not involve a default judgment or a trial. 803 F.2d at 1131. Rather, the case involved the denial of a motion to vacate a reinstatement order. *Id.* at 1134 (noting that "the reinstatement order was not a default judgment within the meaning of Rule 55"). And while *Solaroll* relied upon *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396 (5th Cir. 1981), the Court in *Seven Elves* specifically stated that it was avoiding answering the question of whether the judgment at issue was a default judgment because the case could be decided under Rule 60(b). *Id.* at 400–01. The Court's discussions of Rule 55 in those cases are dicta because they were "not necessary to deciding the case[s]." *United States v. Caraballo-Martinez*, 866 F.3d 1233, 1244 (11th Cir. 2017) (citation omitted). Because we are not bound to follow dicta, we need not consider Devengoechea's reliance on *Solaroll*. *See Johnson v. Sec'y, Fla. Dep't of Corr.*, 132 F.4th 1309, 1315 (11th Cir.), *cert. denied sub nom.*, *Johnson v. Dixon*, 146 S. Ct. 314 (2025).

Bass is a closer case. 172 F.2d at 210. Devengoechea reads *Bass* to find that the alleged default judgment in that case was improper because the defendant had filed an earlier answer to the plaintiff's claims. Under Devengoechea's reading, default judgment in this case would be improper because Venezuela filed an answer to his claims. Likewise, much of the dissent is spent explaining why, in the dissent's view, *Bass* was correctly decided. But that issue is not before us.

We assume, without deciding, that *Bass* governs default judgments in the normal course of litigation. But this case does not arise out of the normal course of litigation. This is an FSIA case. *Bass* was decided before the FSIA was enacted, so it could not have accounted for the circumstances that could lead to a default judgment under the FSIA. And we see no reason to import *Bass* into this entirely different context.

The dissent states that "Rule 55 is Rule 55, whether in an FSIA case or any other type of civil case." We disagree. Nothing in the FSIA's default provision limits its applicability to a single triggering event—it speaks only of "judgment by default." 28 U.S.C. § 1608(e). A myriad of circumstances may lead to default judgment—including, as the dissent notes, the failure to plead or defend, Rule 37, and the district court's inherent powers.[1] We hold that *any* triggering event that would lead to a default judgment, in name or effect, against a foreign state is governed by section

[1] The dissent does not clearly explain what it believes should happen when a district court uses its inherent powers to enter a default judgment. But the dissent cites both *Compania* and *Eagle Hospital Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298 (11th Cir. 2009), for the proposition, and a review of the dockets in both cases confirms that the district courts properly followed the notice procedures of Rule 55. That is our prescription under the FSIA as well.

1608(e).[2] And before a district court can enter a default judgment against that foreign state, it must follow the *procedural* requirements of Rule 55.

Our most relevant precedent is *Compania*, which specifically considered default judgment under the FSIA and the policy reasons underlying the statutory provision. In *Compania,* despite the foreign state's earlier answer to the plaintiffs' claims, this Court affirmed the entry of default based on the failure to follow court orders and directed the district court to follow section 1608(e) before entering a default judgment under the FSIA. 88 F.3d at 951–52. We will do the same.

A final note in conclusion: Even if Devengoechea had followed the requirements of 28 U.S.C. § 1608(e) and Rule 55, the default judgment proceedings would still have been deficient. Section 1608(e) required Devengoechea to "establish entitlement to relief by providing satisfactory evidence as to each element of the claims upon which relief was sought." *Id.* at 951. This requirement "provide[s] foreign states protection from unfounded default judgments rendered solely upon a procedural default." *Id.* at 950–51. The

[2] The dissent faults us for "offer[ing] no reason why a district court cannot try a civil defendant in absentia when the litigant ceases to defend the case." But notably, the dissent cites no statute or precedent that provides for a trial in absentia in an FSIA case. As previously discussed, by enacting the FSIA, Congress provided a comprehensive scheme for litigation involving foreign states. *See Republic of Hungary*, 145 S. Ct. at 488. The FSIA does not provide for trials in absentia. It *does* provide for default judgments in section 1608(e), and that provision covers the litigation before the district court in this case.

record in this case does not reflect that the district court considered section 1608(e) at all. As such, the record would be insufficient to allow us to assess whether the district court abused its discretion in doing so, and we would nonetheless remand the case to allow the district court to consider section 1608(e)'s requirements.

IV. CONCLUSION

Devengoechea failed to comply with section 1608(e) of the FSIA and the procedural requirements of Rule 55. Accordingly, the district court abused its discretion by entering judgment against Venezuela. We therefore **VACATE** the district court's judgment and **REMAND** the case for further proceedings consistent with this opinion.

ROSENBAUM, Circuit Judge, dissenting:

I would affirm the judgment of the district court. The Majority Opinion reaches the opposite conclusion only because, most respectfully, it confuses three distinct concepts: (1) Rule 55, Fed. R. Civ. P., defaults; (2) defaults under a district court's inherent powers; and (3) in absentia trials after proper notice to the absent party.

Under Federal Rule of Civil Procedure 55(a), the clerk of court "must" enter default against a party only if that party "has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise." In *Bass v. Hoagland*, our predecessor Court held that failure to "otherwise defend" means only failure to defend at the pleading stage. 172 F.2d 205, 210 (5th Cir. 1949).[1] So under *Bass*, once the proceedings pass the pleading stage, Rule 55(a) default is off the table. *Bass* means the district court here can't engage in Rule 55's default procedure on remand because the Bolivarian Republic of Venezuela "otherwise defend[ed]" when it moved to dismiss. So no Rule 55 default ever even arguably occurred here.

In contrast, under its inherent powers, a district court can enter default judgment against a party at any time in the litigation—even after the pleading stage. But to do so, the court must find that the party acted in bad faith. *Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1306 (11th Cir. 2009).

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[1] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc), we adopted decisions of the Fifth Circuit handed down by the close of business on September 30, 1981, as binding precedent.

Then we have in absentia trials. They fill the remaining space—when a party fails to respond to the court after the pleading stage but the court cannot (or chooses not to) make a finding of bad faith. Once the parties have passed the pleading stage, the issue has been joined,[2] so as I've explained, the court cannot enter a Rule 55 default judgment. *Bass*, 172 F.2d at 209–10; *Solaroll Shade & Shutter Corp., Inc. v. Bio-Energy Sys., Inc.*, 803 F.2d 1130, 1134 (11th Cir. 1986). Indeed, we've said, at that point, "Rule 55 is inapplicable." *Solaroll*, 803 F.2d at 1134. The proper procedure then requires trial after appropriate notice to the defendant. *See Bass*, 172 F.2d at 210; *Solaroll*, 803 F.2d at 1134.

Here, the case had passed the pleading stage, so Rule 55 default was not an option. That left either inherent-powers default or *in absentia* trial, given the Bolivarian Republic of Venezuela's failure to respond to the district court's orders. Perhaps because the district court did not think it appropriate to find bad faith, the court expressly said that it "did not hold [the Bolivarian Republic of Venezuela] in default but treated the trial as a full trial on the merits where [Devengoechea] bore all evidentiary burdens." And after holding that trial, the court entered findings of fact and conclusions of law determining that Devengoechea had established his claims by a preponderance of the evidence. Venezuela has not shown that the district court's factual findings were clearly erroneous or that the district court erred in determining Devengoechea had

[2] *See Joinder of Issue*, BLACK'S LAW DICTIONARY (12th ed. 2024).

established each of the elements of his claims by a preponderance of the evidence. So I would affirm the district court's ruling.

The Majority Opinion offers no reason why a district court cannot try a civil defendant in absentia when the litigant ceases to defend the case. And it doesn't explain how—despite binding precedent to the contrary—a judgment following that type of trial is a default judgment.

Instead, the Majority Opinion vacates the district court's judgment because it says that the district court failed to comply with the Foreign Sovereign Immunities Act's ("FSIA") default provision, 28 U.S.C. § 1608(e), which in turn incorporates the default provisions of Rule 55, Fed. R. Civ. P. But as I've explained, the court never entered default in this case; it entered judgment based on its factual findings and conclusions of law after Devengoechea proved his case at trial. So the FSIA's default provision does not apply here.

Nor, as the Majority Opinion asserts, does *Compania Interamericana Export-Import, S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948 (11th Cir. 1996), somehow alter this fact. In *Compania*, unlike here, the district court entered a default judgment. Not only that, but it did so based on its inherent powers, not on Rule 55. Because the district court here issued judgment for Devengoechea after trial—not on a default—Section 1608(e) and *Compania* do not apply.

And in any case, the district court entered judgment for Devengoechea only after it found he had proven all the elements of his claims by a preponderance of the evidence. So even under Section 1608(e) of the FSIA, then, Devengoechea "establish[ed] entitlement to relief by providing satisfactory evidence as to each element of the claims upon which relief was sought." *Compania*, 88 F.3d at 951.

For these reasons, I would affirm.

I divide my discussion into four substantive parts. Section I explains why the district court could not enter a Rule 55 default judgment in this case (and why, contrary to the Majority Opinion's suggestion, it can't do so on remand). Section II discusses inherent-powers defaults. It also shows why *Compania*, where the district court entered a default judgment under its inherent powers, is irrelevant to the analysis here and doesn't somehow invalidate *Bass* in FSIA cases. And Section III reviews why the district court did not err in holding trial in Venezuela's absence and entering judgment for Devengoechea after trial.

I. Contrary to the Majority Opinion's suggestion, under binding Circuit precedent, the district court could not (and cannot on remand) enter a Rule 55 default judgment in this case because the parties had passed the pleading stage.

Before I review what the district court did here, it's important to understand what the district court did not do. The district court did not enter a default judgment of any type. Nor could it have done so. And despite the Majority Opinion's suggestion to the contrary, the district court can't enter a Rule 55 default judgment on remand. This section explains why.

Bass, as well as Rule 55's text and the structure of the Federal Rules of Civil Procedure limit the availability of Rule 55's default procedure to cases that haven't yet passed the pleading stage. But this case has passed that stage.

I begin my discussion with Rule 55's text and the structure of the Federal Rules of Civil Procedure. Then I show why *Bass* requires the conclusion that Rule 55 default is not an option when, as here, a party has already moved to dismiss.

A. Rule 55's text and the structure of the Federal Rules of Civil Procedure limit the availability of Rule 55's default procedure to cases that haven't yet passed the pleading stage.

Rule 55(a) requires the clerk of court to enter default against a party if that party "fail[s] to plead or otherwise defend, and that failure is shown by affidavit or otherwise." Fed. R. Civ. P. 55(a). After the clerk enters default, "[i]f the [party]'s claim is for a sum certain or a sum that can be made certain by computation," the clerk "must enter judgment for that amount and costs against a defendant" once the plaintiff presents an affidavit "showing the amount due." Fed. R. Civ. P. 55(b)(1). But sometimes, a party can't show he's due a sum certain. In that case, if the allegedly defaulting party "has appeared personally or by a representative," the party seeking the default judgment must serve written notice on the defaulting party at least seven days before the court conducts a hearing on the motion for default judgment. Fed. R. Civ. P. 55(b)(2).

In either case, though—that is, whether a party seeking default proceeds under Rule 55(b)(1) through the clerk or Rule 55(b)(2) through the district court itself—the clerk must have first correctly entered default under Rule 55(a). So it's worth examining the circumstances under Rule 55(a) that require the clerk to enter default.

As relevant here, the clerk must enter default only when the allegedly defaulting party has "failed to plead or otherwise defend." Fed. R. Civ. P. 55(a).

A "fail[ure] to plead" is easy enough to understand. Rule 7 identifies what "pleadings" the Federal Rules of Civil Procedure permit. They include (1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer." Fed. R. Civ. P. 7(a). And other rules limit the contents and form of those pleadings. *See* Fed. R. Civ. P. 8–15.

As for "otherwise defend," we commonly understand the verb "defend" to mean "[t]o do something to protect someone or something from attack." *Defend*, Black's Law Dictionary (12th ed. 2024). And "otherwise" means "[i]n another case; in other circumstances; if not; else." *Otherwise*, Oxford English Dictionary Online, https://perma.cc/T3JT-9ZYZ.

In construing these words together, of course, we must consider the phrase "otherwise defend" in its context. That's so both because we don't evaluate the meaning of words in a vacuum, and the word "otherwise," by its nature, is comparative. So we ask what ways exist to "otherwise defend" compared to a responsive "plead[ing]."

In *Bass*, we answered that question by saying "otherwise defend" means other defenses at the pleading stage. 172 F.2d at 210. Though we didn't express our reasoning, in my view, the text of Rule 55(a) and the structure of the Federal Rules of Civil Procedure mandated our answer.

Start with the text of Rule 55(a). Again, that rule applies when a party "has failed to plead or otherwise defend." Fed. R. Civ. P. 55(a). So "has failed to" applies to both "plead" and "otherwise defend." But "has failed to defend" is not the same thing as "has ceased to defend." In the first case, a party hasn't defended itself in any way; it has filed neither a responsive pleading nor a responsive motion. But in the second case—"has ceased to defend"—the party *has* defended itself at some point; it must have at least filed a responsive pleading or motion, and only after that, stopped defending. So the text "failed to defend" in Rule 55(a) reflects the drafters' intent to cover only failures to file responsive motions, in the absence of filing a responsive pleading, at the pleading stage.

But even if we assumed "failed to defend" included ceasing to defend after the pleading stage, there's another textual problem. Had the drafters of Rule 55(a) intended for the rule to apply beyond the pleading stage, they needn't have specified "fail[ure] to plead" as a basis for default. The drafters could have simply written the rule to apply when a party failed to defend. That is, the drafters could have specified, "When a party against whom a judgment for affirmative relief is sought has failed to defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." But by including the phrase "failed to plead" before "or otherwise defend," the drafters reflected the intent to limit the default remedy under the rule to only those cases when a party fails to defend at the pleading stage.

The structure of the Federal Rules of Civil Procedure also shows that Rule 55(a) applies only when a party has failed to respond at the pleading stage. Both Rule 8 and Rule 37 support that.

Consider Rule 8(b)(6). Rule 8(b)(6) specifies the "[e]ffect of [f]ailing to [d]eny . . . [a]n allegation—other than one relating to the amount of damages— . . . if a responsive pleading is required." Fed R. Civ. P. 8(b)(6). That "[e]ffect" is the allegation is deemed "admitted." *Id.*

Compare that to "[t]he effect of a default judgment": "the defendant . . . admits the plaintiff's well-pleaded allegations of fact." *See Nishimatsu Construction Co., Ltd. v. Houston National Bank,* 515 F.2d 1200, 1206 (5th Cir. 1975). In other words, the party failed to deny *even one* allegation in the pleading, so default judgment is warranted. But the failure to deny even one allegation in the pleading can happen at only the pleading stage.

So Rule 55 is the logical extension of Rule 8(b). Rule 55 tells us what happens when a party has literally failed to deny *even one* allegation in the pleading: default.

After the pleading stage, a party's failure to respond to discovery or dispositive motions or to appear for trial is qualitatively a different kind of failure: "[a] defendant who has participated throughout the pretrial process and has filed a responsive pleading, placing the case at issue, has not conceded liability." 10A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2682 (4th ed. Sept. 2025 Update). And that difference explains why we've insisted on a finding of bad faith for a district court to strike a party's responsive pleading and enter default judgment under its inherent power. *See e.g.*, *Malautea v. Suzuki Motor Co., Ltd.*, 987 F.2d 1536, 1542 (11th Cir. 1993).

Yet Rule 55(a) *requires* the clerk of court to enter default merely if a party "has failed to plead or otherwise defend." *See* Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, ad that failure is shown by affidavit or otherwise, the clerk *must* enter the party's default.") (emphasis added). It's ministerial. It can't be the case that Rule 55 allows the clerk of court to, in a case where the parties have participated in the pleading stage, do what a court under its inherent power could not do without a finding of bad faith.

As for Federal Rule of Civil Procedure 37, Rule 37(b)(2)(A)(vii) allows for the entry of default judgment against a party who fails to obey a discovery order, and Rule 37(d)(3) permits the court to enter a default judgment against a party that fails to attend its own deposition, serve answers to interrogatories, or respond to a request for inspection. If Rule 55(a) covered all post-pleading-stage cessations of efforts to defend, Rules 37(b)(2)(A)(vii) and 37(d)(3) wouldn't be necessary in their present form.

I see two possible responses to this reasoning, which I address in turn.

First, one might argue that if the drafters wished to limit Rule 55(a)'s applicability to failures to defend at the pleading stage, they could have simply said that, instead of using what appears on its face to be a broad term: "otherwise defend." But I'm not so sure.

Making Rule 55(a) applicable "[w]hen a party against whom a judgment for affirmative relief is sought *has failed to defend at the pleading stage*," as opposed to "failed to plead or otherwise defend," reasonably may have created an ambiguity. "Failed to defend at the pleading stage" may have left doubt as to whether simply filing a responsive pleading, instead of filing a motion responsive to a pleading, would be enough to satisfy the terms of Rule 55(a). So "failed to plead or otherwise defend" more precisely captures failures to defend at the pleading stage.

Second, one might argue that limiting the meaning of "otherwise defend" to pleading-stage actions does not make practical sense. It leaves courts without any ability to control their dockets when a party fails to appear for trial but the record doesn't permit a finding of bad faith. So a case could sit on the court's docket undefended for years, and the court could not dispose of it. *See Hoxworth v. Blinder, Robinson & Co.*,, 980 F.2d 912, 918 (3d Cir. 1992), *abrogated on a different basis by Morgan v. Sundance, Inc.*, 596 U.S. 411

(2022) (collecting cases that "support the proposition that the district court's power to maintain an orderly docket justifies the entry of a default [under Rule 55] against a party who fails to appear at trial"). Nor could the plaintiff obtain resolution of his claim.

Indeed, the Third Circuit has observed, "[t]he failure to plead is no greater an impediment to the orderly progress of a case than is the failure to appear at trial or meet other required time schedules." *Id.* at 918. So it's hard to understand "why the former would be subject to a sanction not equally applicable to the latter." *Hoxworth*, 980 F.2d at 917.

But there's an answer for this problem. Instead of using Rule 55(a) and (b), a court may enter default judgment under its inherent powers when "a litigant has been given ample opportunity to comply with court orders but fails to effect any compliance." *Compania*, 88 F.3d at 952. In that situation, the district court may "deem[] [the party's conduct] willful." *Id.* Or the district court may proceed to an in absentia trial after proper notice to the noncompliant litigant. *See infra* at Section III.

Even if these options weren't available, Rule 55(a)'s text is unambiguous. And we don't get to rewrite unambiguous rules to comport with our preferred interpretation.

To be sure, several Circuits besides the Third have construed "otherwise defend" in Rule 55(a)'s text to refer to a party's ceasing its defense up through trial. *See, e.g.*, *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 129 (2d Cir. 2011) ("We have embraced a broad understanding of the phrase 'otherwise defend.'"); *Home Port Rentals, Inc. v. Ruben*, 957 F.2d 126, 133 (4th Cir. 1992); *Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 856 (8th Cir. 1996); *Ringgold Corp. v. Worrall*, 880 F.2d 1138, 1141–42 (9th Cir. 1989) (per curiam).

But none of these opinions purport to explain why the drafters of Rule 55(a) wouldn't have simply said "failed or ceased to defend" instead of "failed to plead or otherwise defend" if the drafters intended the rule to apply to failures to defend beyond the pleading stage. Nor do they address the difference between the failure to defend and the ceasing of defending. They also don't discuss their interpretation of how Rule 55 is consistent with Rule 8(b).

And while *Hoxworth* mentions Rule 37 default sanctions, it doesn't explain why those are necessary if Rule 55(a) provides for default whenever a party ceases to defend. *See Hoxworth*, 980 F.2d at 919. To the contrary, *Hoxworth* suggests Rule 37 as "an alternate basis" for the district court's Rule 55 default judgment. *See id.* In the absence of viable answers to these problems, I don't see how we can faithfully construe the text of Rule 55(a) to apply to failures to defend beyond the pleading stage.

B. Under Bass, *a district court cannot enter a Rule 55 default when, as here, a party has already moved to dismiss.*

That brings me to why *Bass* binds us here. But before I discuss *Bass*, it's important to distinguish between two concepts: Rule 55's default procedure and the constitutional right to due process.

I begin with Rule 55. As a Federal Rule of Civil Procedure, it enjoys the authority that the Rules Enabling Act, 28 U.S.C. § 2071 *et seq.*, bestows upon it. Under that Act, when it comes to "practice and procedure," *id.* § 2072(a), the Federal Rules govern, and "[a]ll laws in conflict with such rules shall be of no further force or effect," *id.* § 2072(b). In other words, "[t]he Federal Rules of Civil Procedure have the force and effect of a statute." *Brotherhood of Locomotive Firemen and Enginemen v. United States ex rel. Deavers*, 183 F.2d 65, 67 (5th Cir. 1950). Rule 55's default procedure obviously qualifies as a rule of "procedure," so it has the "force and effect of a statute."

That said, even statutes must bow to the Constitution. So if, in a given case, application of Rule 55's default procedure deprives a litigant of due process under the Fifth Amendment, that application cannot stand. But the fact that the application of Rule 55's default procedure may violate due process in a case where the facts don't support its application doesn't somehow change the meaning or application of Rule 55 in other cases where the facts do.

With that in mind, I turn to *Bass*. In *Bass*, before the suit at issue there, the plaintiff (Hoagland) obtained a monetary judgment against Bass in a Kansas federal district court. *See Bass*, 172 F.2d at 206–07. Hoagland then filed the suit at issue in *Bass*—this time in Texas federal district court—seeking execution of the Kansas judgment. *See id.* In Bass's answer, he asserted several defenses. *Id.* As relevant here, he alleged that the Kansas judgment was a default judgment, and it violated his due-process rights under the Fifth Amendment because Hoagland had allegedly failed in the Kansas case to give notice under Rule 55(b) of Bass's alleged default.

In response, Hoagland presented a certified copy of the judgment. *Id.* at 207. That judgment said that "the case came on for trial," Hoagland's attorneys were present, but neither Bass nor his attorneys were. *Id.* So, the judgment continued, the court determined Bass to be "in default by reason of the withdrawal of [his attorney], which withdrawal had previously [been] made in open court by said attorneys after notice to defendants." *Id.* Based on these alleged circumstances, the judgment explained, the Kansas court "proceeded to trial," took evidence, heard argument, and found that Hoagland was entitled to judgment in the stated amount. *Id.*

Bass took issue with this version of events in the Kansas case. He filed an answer in the Texas case asserting that he had demanded a jury trial in the Kansas case. *Id.* But then his attorney withdrew from the Kansas case. *Id.* at 207–08. And though the Kansas judgment said that "notice of the withdrawal was given the defendants," Bass alleged he had no knowledge of his attorney's withdrawal. *Id.* at 208. As a result, when the case came up for trial, neither Bass nor his attorney was present. *Id.*

Back in the Texas case, the district court was not impressed with Bass's answer to Hoagland's claim. And it entered judgment for Hoagland on the pleadings in that case. *Id.* at 206. Bass appealed.

Our predecessor Court determined that the district court erred in entering judgment for Hoagland on the pleadings. *Id.* at 210. Instead, the Court said that the district court had to try "the truth of [Bass's] answer." *Id.* The Court continued, "If the judgment sued on is found to be void, the Kansas court would probably now set it aside, leaving the case there for trial on its merits." *Id.*

In reaching this decision, the Court necessarily considered whether the Kansas default judgment would be void if Bass's version of the facts were true. *See id.* at 208–11. The Court said it would. *See id.*

Under Bass's version of the facts, the Court explained, no default under Rule 55(a) had occurred. *See id.* at 210. That was so, the Court reasoned, because "[t]he words 'otherwise defend' [in Rule 55(a)] refer to attacks on the service, or motions to dismiss, or for better particulars, and the like, which may prevent default without presently pleading to the merits." *Id.* But "[w]hen Bass by his attorney filed a denial of [Hoagland's] case neither the clerk nor the judge could enter a default against him." *Id.*

And even not considering that Rule 55(a) doesn't authorize a default after a party pleads or otherwise responds to a pleading, the Court went on, there was another problem. *Id.* Hoagland had failed to give Bass and his counsel the notice Rule 55(b) requires before a court can enter a default judgment. *Id.*

Finally, the Court concluded that based on the facts as Bass alleged them, the Kansas court's entry of default despite the inapplicability of Rule 55—and that court's failure to comply with Rule 55's procedures or any notice procedures, in any case—violated Bass's constitutional right to due process. *Id.* In other words, in reviewing an order rejecting a collateral attack on a prior judgment, the Court determined both that the Kansas court did not have the authority to enter default judgment under Rule 55 and that the Kansas court's way of proceeding, taken as a whole, separately violated Bass's constitutional rights.

So *Bass* requires us to construe the meaning of "otherwise defend" under Rule 55(a) to be limited to defending at the pleading stage. *See Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 400 n.2 (*Bass* "remains as binding precedent in this circuit. Thus, under *Bass*, a default judgment entered upon the failure of the appellants or their attorney to appear at trial might well be found to have been erroneously entered as a matter of law under Fed. R. Civ. P. 55."). And because the Bolivarian Republic of Venezuela defended at the pleading stage, Rule 55 default is off the table under our precedent. Finally, because neither the Supreme Court nor we, sitting en banc, have abrogated this holding from *Bass*, we are bound to apply it under the prior-panel-precedent rule. *See In re Lambrix*, 776 F.3d 789, 794 (11th Cir. 2015).

II. Compania *is irrelevant here because it involved an inherent-powers default, but the district court did not enter a default judgment; it instead held an in absentia trial and entered judgment for Devengoechea only after finding that he had established each of the elements of his claims by a preponderance of the evidence.*

The Majority Opinion asserts that *Bass* doesn't apply here because *Compania*, a later one of our precedents, does instead. *See*

Maj. Op. at 8. But *Compania* deals with a default that the district court entered under its inherent powers, not under Rule 55.

If *Compania* addressed a default under Rule 55(a) or (b)—the provisions under which the Majority Opinion asserts Devengoechea should have sought a default judgment—it would have conflicted directly with *Bass*'s holding. And because *Bass* precedes *Compania*, *Bass*—not *Compania*—would govern. *See United States v. Madden*, 733 F.3d 1314, 1319 (11th Cir. 2013) ("When we have conflicting case law, we follow our oldest precedent."). But as I've explained, *Compania* deals only with default judgment under a court's inherent powers, not under Rule 55.

In *Compania*, the defendant filed a responsive pleading and defended the case for some time. *See Compania*, 88 F.3d at 949–50. At some point, though, the defendant's counsel withdrew and the defendant began having problems responding to the plaintiff and the court in a timely way. *See id.* at 950. So the plaintiff moved for default. *Id.* While that motion was pending, the court ordered the parties to participate in mediation at least 60 days before the scheduled trial date. *Id.* The defendant moved for an extension of time (one of many such motions it had filed in the case), and its new counsel moved to withdraw. *See id.* That was enough aggravation for the district court, and it granted the plaintiff's pending motion for default and directed the plaintiff to move for default judgment. *Id.*

In response, the plaintiff did so. *Id.* It supported its request for damages with affidavits. *Id.* The defendant secured counsel again and moved to set aside the entry of default. *Id.* Instead, though, the district court entered a final default judgment because of the defendant's "failure to obtain . . . counsel and . . . failure to comply with this Court's discovery orders." *Id.* Based solely on the affidavits that the plaintiff filed with its motion for default judgment, the court awarded the plaintiff damages. *Id.*

Then the defendant moved for relief from judgment. *Id.* But the district court denied the motion to set aside the entry of default and the default judgment. *Id.*

In *Compania*, we issued two holdings. First, we held that the district court did not abuse its discretion in refusing to set aside its entry of default under its inherent powers. *See id.* at 951–52. But second, we held that, to obtain a default judgment under the FSIA, a party must also "establish[] his claim or right to relief by evidence satisfactory to the court." *See id.* at 950 (quoting 28 U.S.C. § 1608(e)). Because the district court had not found that the *Compania* plaintiff had done that, we vacated the default judgment and remanded for further proceedings. *Id.* at 952.

There's no doubt that *Compania* is right that a party seeking a default judgment in an FSIA case must also "establish[] his claim or right to relief by evidence satisfactory to the court." But nothing about that holding affects in any way our holding in *Bass* that establishes the prerequisites for obtaining a Rule 55 default. In fact, at no point in its discussion did the *Compania* court even mention *Bass* or its progeny. *See generally id.* And that makes sense because the *Compania* district court entered default judgment under its inherent powers, not under Rule 55(a) and (b).

The Majority Opinion explains the absence of *Bass* from *Compania*'s discussion by saying that "*Bass* was decided before the FSIA was enacted, so it could not have accounted for the circumstances that could lead to a default judgment under the FSIA. And we see no reason to import *Bass* into this entirely different context." Maj. Op. at 12. But that's no answer. Nothing about the FSIA's default provision somehow makes *Bass*'s interpretation of Rule 55(a) and (b) inapplicable to cases arising under the FSIA. Rule 55 is Rule 55, whether in an FSIA case or any other type of civil case. And *Compania* says nothing at all about Rule 55(a) and (b). Rather, it focuses on the district court's *inherent powers to enter a default judgment* and on Section 1608(e). Yet Section 1608(e) merely requires—in addition to a *valid* default (whether under Rule 55 or the court's inherent powers)—that a claimant "establish[] his claim or right to relief by evidence satisfactory to the court."

As we explained in *Compania*, Congress enacted Section 1608(e) "to provide foreign states protection from unfounded default judgments rendered solely upon a procedural default." 88 F.3d at 951. Under *Bass*, had the *Compania* district court entered a Rule 55 default (again, it didn't), we would have vacated it. That would have protected the foreign state from a "default judgment[] rendered solely upon a procedural default," *see id.*, even in the absence of the plaintiff's establishing of its claim by "evidence satisfactory to the court."

To be sure, a Rule 55 default could be valid under *Bass* in an FSIA case if the foreign state failed to plead or otherwise defend at the pleading stage. But even then, Section 1608(e)'s mechanism for protecting against any unfounded default judgment of that type would work by requiring the claimant to, in addition to obtaining a default, "establish[] his claim or right to relief by evidence satisfactory to the court," 28 U.S.C. § 1608(e).

Section 1608(e)'s additional requirement does nothing to contradict *Bass*'s holding. Rather, *Bass*'s holding, if anything, furthers Section 1608(e)'s protective purpose. *Bass* limits even the potential availability of a Rule 55 default judgment to situations where the foreign state has failed even to file a responsive pleading or otherwise defend. And then, under Section 1608(e), a plaintiff must also "establish[] his claim or right to relief by evidence satisfactory to the court," 28 U.S.C. § 1608(e).

In short, *Compania* issued no holdings about Rule 55's default procedure. It didn't even address Rule 55(a) or (b) but instead dealt solely with a default judgment that the district court entered under its inherent powers. So when it comes to Rule 55(a) and (b) defaults, *Bass* remains good law, whether in an FSIA case or any other kind of civil case.

III. The district court did not err in entering judgment against Venezuela after an in absentia trial following proper notice to Venezuela because the district court found that Devengoechea established each of the elements of his claims by a preponderance of

the evidence, and Venezuela has failed to show reversible error.

Finally, Section 1608(e) doesn't govern this case because the district court did not enter a default or a default judgment. Rather, the district court entered judgment for Devengoechea only after holding a bench trial on the merits of his claims and making findings of fact and conclusions of law based on the evidence Devengoechea presented at that trial. And it did so after providing Venezuela with appropriate notice. That was the proper procedure under our precedent.

In *Solaroll Shade*, we held that when a defendant "has answered the complaint but fails to appear at trial, . . . the court can proceed with the trial."[3] 803 F.2d at 1134. We explained that, "[i]f plaintiff proves its case, the court can enter judgment in its favor although the defendant never participated in the trial." *Id.* We recognized that the resulting judgment "is not a default judgment." *Id.*

The Majority Opinion attempts to distinguish *Solaroll* on the basis that *Solaroll* "did not involve a default judgment or a trial." Maj. Op. at 11. But it's precisely because *Solaroll* did not involve a default judgment that it is relevant. After all, Devengoechea's case does not involve a default judgment, either.

[3] Once again, *Bass* and its progeny required this holding. *See Bass*, 172 F.2d at 210 ("When neither Bass nor his attorney appeared at the trial no default was generated; the case was not confessed. The plaintiff might proceed, but he would have to prove his case.").

In *Solaroll*, the parties agreed to a settlement of their federal case. 803 F.2d at 1131. The district court dismissed the case but retained jurisdiction to enforce the settlement agreement. *Id.* A few years later, the plaintiff moved to reinstate the action and to enforce the settlement agreement. *Id.* The plaintiff supported its motion with evidence. *See id.* at 1134. But the defendant never responded. *Id.* at 1131. So the district court granted the plaintiff's unopposed reinstatement motion and, without further notice, entered the proposed order to enforce the settlement agreement that the plaintiff submitted with its reinstatement motion. *Id.* When the defendant moved to vacate the judgment under Rule 60(b), Fed. R. Civ. P., the district court denied the motion, and the defendant appealed. *Id.*

We affirmed. *See id.* at 1135. In explaining why, we addressed the defendant's argument that "[t]o the extent the order constitute[d] a default judgment, it [was] allegedly invalid because the court failed to comply with the notice and hearing provisions of Fed. R. Civ. P. 55(b)." *Id.* at 1133. We rejected the defendant's contention that the judgment was "a default judgment within the meaning of Rule 55." *Id.* at 1134. In doing so, we reasoned that Rule 55 authorizes a district court to enter a default judgment only at "the responsive pleading stage." *See id.* But in *Solaroll*, that stage "had long passed." *Id.* Instead, we said, once the responsive-pleading stage has passed, "the court can proceed with the trial. If plaintiff proves its case, the court can enter judgment in its favor although the defendant never participated in the trial." *Id.* And we determined that, effectively, that's what the district court did in

Solaroll. *See id*. (explaining that the *Solaroll* judgment was not "a summary judgment merely because the court relied only on the movant's supporting evidence").

So *Solaroll* tells us that once we progress past the responsive-pleading stage, if the district court does not enter default judgment under its inherent powers, it may proceed to trial even in the defendant's absence. That's precisely what the district court did here.

Still, due process requires that a defendant in this situation receive fair notice of the proceedings before they occur. But once again, that happened here.

On July 11, 2023, the district court entered orders denying Venezuela's motion to dismiss and for summary judgment and setting the case for non-jury trial more than four months later, on November 29, 2023. The court filed these orders on the docket, making them available to anyone by PACER or to counsel with CM/ECF access. Devengoechea's counsel also certified that they served these orders by first-class U.S. Mail, DHL Express, U.S. Air Mail, and email on the Bolivarian Republic of Venezuela the next day, July 12, 2023. And no evidence suggests Venezuela did not timely receive notice of the trial.

Plus, the Southern District of Florida's Local Rules warn that "[f]ailure to comply with the requirements of [S.D. Fla. L.R. (relating to pretrial and certain trial requirements)] will subject the party or counsel to appropriate penalties, including but not limited to . . . the striking of defenses and entry of judgment." S.D. Fla. L.R. 16.1(l).

Then, the district court held a bench trial, heard testimony, and reviewed evidence before making findings of fact and entering conclusions of law. The record here does not show that the district court's factual findings were clearly erroneous or that the district court erred in finding that Devengoechea had established all the elements of his claims.

And while Section 1608(e) doesn't apply because the district court did not enter a default judgment against Venezuela, it wouldn't make a difference to the outcome even if we (incorrectly) assumed Section 1608(e) governed. Section 1608(e) requires a claimant to "establish[] his claim or right to relief by evidence satisfactory to the court." That's precisely what Devengoechea did. And Venezuela hasn't shown otherwise.

In sum, the district court did not err in proceeding to trial without Venezuela. And because the evidentiary record sufficiently supports the district court's entry of judgment for Devengoechea, I respectfully dissent. I would affirm.