

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

JACK SOTO,

Plaintiff,

1:09-cv-96

v.

**F&M MAFCO, INC., CHRISTIANSTED
EQUIPMENT LTD., and DAN McKENNA,**

Defendants.

**TO: Rachel Morrison, Esq.
Charles E. Lockwood, Esq.**

ORDER

THIS MATTER came before the Court for consideration upon Plaintiff's Motion For Entry of Default Against Defendants F&M Mafco, Inc.[,] and Daniel McKenna (Docket No. 11), said Defendants' separate oppositions to said motion, and Defendant F&M Mafco, Inc.'s Motion to Enlarge Time to File a Responsive Motion (Docket No. 17). This order is issued without necessity of further response and/or reply.

It is well established that entries of default are disfavored; resolving cases on their merits is generally preferred. *See, e.g., United States v. Mulvenna*, No. 09-3012, 2010 WL 691203 at *1 (3d Cir. March 1, 2010) (slip copy).

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In the matter at bar, the Court finds that entry of default against said Defendants is not warranted. Defendant McKenna claims that he has not been served properly. Defendant M&F Mafco, Inc., is a corporation, whose agent for service of process failed to notify counsel in a timely manner. The Court finds that said Defendants acted promptly to respond to the motion for entry of default. In addition, Defendant McKenna already has filed a motion to dismiss in response to the complaint. Consequently the Court will deny the motion for entry of default.

Having found that Plaintiff is not entitled to entry of default, the Court further finds that Defendant F&M Mafco, Inc.'s motion to enlarge time should be granted.

Accordingly, it is now hereby **ORDERED**:

1. Plaintiff's Motion For Entry of Default Against Defendants F&M Mafco, Inc.[,] and Daniel McKenna (Docket No. 11) **DENIED**.
2. Defendant F&M Mafco, Inc.'s Motion to Enlarge Time to File a Responsive Motion (Docket No. 17) is **GRANTED**.
3. Defendant F&M Mafco, Inc., shall answer or otherwise respond to Plaintiff's Complaint on or before **May 14, 2010**.

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ENTER:

Dated: May 4, 2010

/s/ George W. Cannon, Jr.

GEORGE W. CANNON, JR.

U.S. MAGISTRATE JUDGE