

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**PATRICIA BENJAMIN, court appointed
guardian of the Estate of RONALD
WILLIAMS, a minor,**

2008-CV-0101

Plaintiff,

v.

**ESSO STANDARD OIL CO., PR MEDICAL
INSURANCE AIG LIFE INSURANCE CO.–
MCS, and ESSO STANDARD OIL
COMPANY (PUERTO RICO),**

Defendants.

**TO: Kenth W. Rogers, Esq.
Charles E. Engemean, Esq.
Wilfredo A. Geigel, Esq.**

ORDER

THIS MATTER came before the Court upon Plaintiff's Motion For Default Judgment (Docket No. 12). This order is issued without necessity of response.

The general rule is that entry of default must be entered prior to any entry of default judgment. *See, e.g., Husain v. Casino Control Comm'n*, 265 Fed. App. 130, 133 (3d Cir. 2008) (where the court notes, "[E]ntry of default by the Clerk under Federal Rule of Civil

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Procedure 55(a) constitutes a general prerequisite for a subsequent default judgment under Rule 55(b)" (citations omitted)).

A review of the record in this matter demonstrates that, while entry of default was entered by the Clerk of Court (Docket Nos. 5 and 6), such entry was set aside and vacated by the Court in its Order (Docket No. 29), entered February 17, 2009. Consequently, Plaintiff's motion for default judgment is moot.

Accordingly, it is now hereby **ORDERED** that Plaintiff's Motion For Default Judgment (Docket No. 12) is **DENIED AS MOOT**.

ENTER:

Dated: March 30, 2009

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE