

accordance with the provisions of Rule 60(b). Under Rule 60(b), even in the case where default has been entered, it can be set aside for a number of reasons including (1) mistake, inadvertence, surprise, or excusable neglect; as well as (6) any other reason justifying relief from the operation of a judgment.

Attached hereto is an affidavit in support of applicant's response to this Order To Show Cause. The affidavit of Ms. Apicella establishes that clerk's responsible for reviewing incoming mail and entering due dates in the applicant's counsel's docketing system did receive the order setting dates on May 9, 2003. However, quite inadvertently, while all of the discovery dates beginning on November 23, 2003, were entered on applicant's docketing system, since the dates in bold lettering were noted by the docketing clerk, the clerk failed to note the 30-day period in the opening paragraphs of the document in question for the filing of an Answer, which is not in bold lettering, and does not include a specific due date. In view thereof, applicant's counsel was never advised of the due date for the filing of an Answer, and did not take such action. Applicant therefore respectfully submits that this constitutes the precise type of mistake, inadvertence, and excusable neglect to which Rule 60(b) is directed.

Applicant's counsel also notes that, while it is not an excuse for the failure to appropriately answer within the 30-day period, applicant's counsel and counsel for the opposer were continuing settlement discussions during the time period in question with regard to this matter. While applicant thus submits that the inadvertence demonstrated herein is fully sufficient to establish good cause for not entering default in this case, the fact of continued negotiations is mentioned at this point merely to note that there would be no prejudice to the opposer by reinstating this case, since opposer certainly expected that this opposition would either proceed forward or be resolved by settlement thereof.

In view of the above, it is therefore respectfully submitted that good cause clearly exists for not entering default judgment in this case and permitting this opposition to continue forward. Applicant has also submitted the required Answer in connection with this matter should it be granted.

Respectfully submitted,

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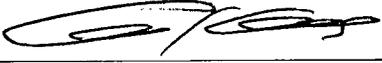
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Date: August 8, 2003

By: 

ARNOLD H. KRUMHOLZ

CERTIFICATION OF SERVICE

I, Arnold H. Krumholz, hereby declare that on this 8th day of August, 2003, a true copies of the foregoing MOTION UNDER FED. R. CIV. P. 60(b) and DECLARATION IN RESPONSE TO ORDER TO SHOW CAUSE were mailed via First-class mail, postage prepaid, to:

Roberta Jacobs-Meadway, Esq.
Ballard Spear Andrews & Ingersoll, LLP
1735 Market Street - 51st Floor
Philadelphia, PA 19103-7599

Date: August 8, 2003



ARNOLD H. KRUMHOLZ