

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JEFFREY JOSEPH,)	
)	
Plaintiff)	
)	
v.)	No. 2:18-cv-00443-LEW
)	
LINCARE, INC., <i>et al.</i> ,)	
)	
Defendants)	

**MEMORANDUM OF DECISION AND ORDER ON MOTION TO SET ASIDE
DEFAULT AND FILE LATE ANSWER**

By motion dated March 26, 2019, Defendant, Family Practice on the River d/b/a Kennebunk Walk-In Clinic requests relief from the Clerk’s entry of default on February 8, 2019. Mot. to Set Aside Entry of Default and Allow Late Filing of Ans.¹ (ECF No. 35).

Under Federal Rule of Civil Procedure 55(a), the clerk must enter default against a party who has “failed to plead or otherwise defend.” However, in cases where “good cause” is shown, the Court may set aside the entry of default. Fed. R. Civ. P. 55(c). The phrase “good cause” is construed liberally and Courts are not required to adhere to a rigid or “mechanical formula” when considering whether good cause exists. *In re Game Tracker, Inc.*, 746 F. Supp. 2d 207, 217 (D. Me. 2010). Courts considering such motions generally ask: (1) whether the default was willful; (2) whether setting it aside would prejudice the adversary; (3) whether a meritorious defense is presented; (4) the nature of the defendant’s

¹ Defendant filed its answer on March 21, 2019.

explanation for the default; (5) the good faith of the parties; (6) the amount of money involved; and (7) the timing of the motion. *Lucerne Farms v. Baling Techs., Inc.*, 208 F.R.D. 463, 465 (D. Me. 2002).

The motion record supports the following findings: (1) the default was not willful; (2) setting aside the default does not result in prejudice; (3) a meritorious defense is presented; (4) the defendant's explanation is acceptable; (5) there is no reason to find a lack of good faith; (6) an appreciable sum of money is involved; and (7) the timing is within the bounds of what can be forgiven. Given findings that favor granting the motion, and given the "basic tenet of federal civil procedure that 'actions should ordinarily be resolved on their merits,'" *id.*, the Motion to Set Aside Entry of Default and Allow Late Filing of Answer (ECF No. 35) is GRANTED. ²

SO ORDERED.

Dated this 6th day of May, 2019.

/s/ Lance E. Walker
LANCE E. WALKER
UNITED STATES DISTRICT JUDGE

² Given this ruling, Plaintiff's Motion for Default Judgment (ECF No. 27) is DENIED as moot.