

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

THEODORE L. SCOTT, JR.

PLAINTIFF

v.

No. 3:18-cv-77-DPM

CHARLES JAMES; BRITT HUNT  
COMPANY LLC a/k/a TBHC  
Delivers; TBHC DELIVERS LLC;  
LUMINA FOODS LLC; BTB HOLDINGS  
LLC; HALL & HUNT ENTERPRISES LLC;  
and JOHN DOES, Individuals A-Z and  
Trucking Companies A-Z

DEFENDANTS

ORDER

1. Theodore Scott has sued Charles James, a truck driver, and several trucking entities for injuries that he suffered in a car crash. Scott served the named Defendants, but they didn't answer. The Clerk entered a default. Recently, though, the Defendants have appeared and moved to set aside the Clerk's default.

2. All material things considered, the Court finds good cause to grant the Defendants' motions, *No. 11 & No. 14. Johnson v. Dayton Electric Manufacturing Company*, 140 F.3d 781, 784 (8th Cir. 1998). First, this case is just starting. The delay is marginal. And the prejudice to Scott is minimal. *Stephenson v. El-Batrawi*, 524 F.3d 907, 915 (8th Cir. 2008). Second, the law prefers a decision on the merits. *Johnson*, 140 F.3d at 784. Third, although at fault for the delay, the

Defendants did not act intentionally. James was told that his employer would answer for him. The insurance company put the summons and complaint in the wrong file.

3. The belated answer, No 13, stands. The Clerk's defaults, No 9 & No 10, are vacated.

So Ordered.

DP Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

13 August 2018