

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 09-cv-00681-CMA-MEH

ECHO GEOPHYSICAL CORPORATION,

Plaintiff,

v.

ECKARD LAND & ACQUISITION, LTD.,
AMERICAN ENERGY PARTNERS, INC., and
ENERMAX, INC.,

Defendants.

ORDER REGARDING MOTION TO SET ASIDE DEFAULT JUDGMENT

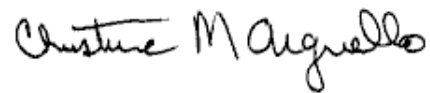
This matter is before the Court on Defendant Enermax, Inc.,’s Motion to Set Aside the Entry of Default Judgment and to Permit Filing of Answer and Jury Demand (Doc. # 34). Because default judgment has not been entered, the Court is treating the motion as a request under the first clause of Fed.R.Civ.P 55(c) to set aside the entry of default (Doc. # 29).

The Court believes cases should be decided on their merits, not procedural defaults. As such, the Court is inclined to grant the motion and set aside the entry of default. However, it would first like to hear from Plaintiff. Thus, if Plaintiff objects to this motion, it is hereby:

ORDERED to file a response, no later than May 15, 2009, substantiating the prejudice, if any, it will suffer or has suffered due to Enermax's failure to timely file its answer/response to the complaint.

DATED: May 8, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge