

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

DAVID MOYA,

Plaintiff,

v.

CASE NO. 8:17-cv-1589-T-26JSS

PENN CREDIT CORPORATION,

Defendant.

ORDER

UPON DUE AND CAREFUL CONSIDERATION of the procedural history of this case, it is **ORDERED AND ADJUDGED** that Plaintiff's Motion for Default Judgment (Dkt. 11) is **denied**. Defendant, through counsel, filed yesterday, August 8th, an Answer, Affirmative Defenses and Jury Demand. Although this pleading was filed several days after the twenty-one day deadline for filing a response to Plaintiff's complaint had expired and after a clerk's default was entered, nevertheless, it would be a gross abuse of this Court's discretion to enter a default final judgment against Defendant. Accordingly, acting *sua sponte*, the Court directs that the clerk's default is vacated, and this case shall proceed in due course.

DONE AND ORDERED at Tampa, Florida, on August 9, 2017.

s/Richard A. Lazzara

**RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE**

COPIES FURNISHED TO:

Counsel of Record