

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

**PUBLIC SUPER MARKETS, INC.,
EMPLOYEE STOCK OWNERSHIP
PLAN and PUBLIX SUPER
MARKETS, INC.,**

Plaintiffs,

v.

Case No. 8:17-cv-2968-T-36AAS

SMILE TRAIN, INC., et al.,

Defendants.

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ORDER

Smile Train and Publix jointly move to set aside a Clerk's default entered against Smile Train. (Doc. 84).

Publix submitted its complaint for interpleader against the defendants, including Smile Train, on December 11, 2017. (Doc. 1). Publix served its summons and complaint on Smile Train on December 27, 2017. (Doc. 43). Under Federal Rule of Civil Procedure 12(a), a defendant must respond to a complaint within twenty-one days of service. Fed. R. Civ. P. 12(a). The deadline for Smile Train to respond to Publix's complaint was January 18, 2018, and Smile Train failed to respond.

Due to Smile Train's failure to plead or otherwise defend against Publix's complaint for interpleader, Publix moved for entry of Clerk's default under Rule 55(a), which was later entered. (Docs. 45, 48). Smile Train and Publix now jointly move to set aside the Clerk's default against Smile Train. (Doc. 84).

A court may set aside entry of a Clerk’s default for good cause. Fed. R. Civ. P. 55(c). “Good cause” under Rule 55(c) is a liberal standard. *Sherrard v. Macy’s Sys. and Tech., Inc.*, 724 F. App’x 736, 738 (11th Cir. 2018) (quotation and citation omitted); *see also Jones v. Harell*, 858 F.2d 667, 668–69 (11th Cir. 1988) (affirming district court that concluded party made “a bare minimum showing” to justify relief under Rule 55(c)). Further, setting aside the Clerk’s default does not prejudice the non-defaulting party because Publix joins Smile Train in requesting this relief.

The court is satisfied good cause exists to set aside the Clerk’s default against Smile Train. Therefore, the joint motion to set aside the Clerk’s default against Smile Train (Doc. 84) is **GRANTED**. Smile Train must respond to Publix’s complaint for interpleader by **October 11, 2018**.

ORDERED in Tampa, Florida on September 27, 2018.



AMANDA ARNOLD SANSONE
United States Magistrate Judge