

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

THE BARTRAM, LLC,

Plaintiff,

v.

CASE NO. 1:09-cv-254-SPM-GRJ

C.B. CONTRACTORS, LLC, and
CAMBRIDGE BUILDERS
& CONTRACTORS, LLC,

Defendants.

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C.B. CONTRACTORS, LLC,

Third-Party Plaintiff,

v.

DUFFIELD ALUMINUM d/b/a DHI
ROOFING, a Florida corporation, et al.,

Third-Party Defendants.

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ORDER

Pending before the Court is The Loyd Group's Agreed Motion To Vacate Default Against Loyd Group On Third Party Complaint. (Doc. 290.) On January 17, 2011 C.B. Contractors, LLC ("C.B.") filed a Third-Party Complaint in this case against The Loyd Group, Inc. (Loyd") and several other Third Party Defendants. (Doc. 136.) On April 12, 2011 C.B. moved for entry of default against Loyd (Doc. 222), and the Clerk entered a default against Loyd later that same day. (Doc. 223.) Loyd requests the Court to set aside the default against it and advises that C.B. does not oppose the relief requested

in Loyd's motion.

Fed. R. Civ. P. 55(c) provides that "[t]he court may set aside an entry of default for good cause." Good cause is a liberal standard that varies from situation to situation, but relevant factors for a court to consider are whether a default was "culpable or willful, whether setting it aside would prejudice the adversary, and whether the defaulting party presents a meritorious defense." Compania Interamericana Export-Import, S.A. v. Compania Dominicana de Aviacion, 88 F.3d 948, 951 (11th Cir. 1996). Because C.B. does not object there does not appear to be any prejudice if the default is set aside. Further, Loyd has filed its answer to C.B.'s Third Party Complaint (Doc. 288) and thus Loyd has presented a defense to the Third Party Complaint. Therefore, there is good cause to set aside the default.

Accordingly, upon due consideration, it is **ORDERED** that:

1. The Loyd Group's Agreed Motion To Vacate Default Against Loyd Group On Third Party Complaint (Doc. 290) is **GRANTED**.
2. The clerk's default entered against Third Party Defendant The Loyd Group, Inc. on April 12, 2011 (Doc. 223) is **SET ASIDE**.

DONE AND ORDERED this 26th day of July, 2011.

s/ Gary R. Jones
GARY R. JONES
United States Magistrate Judge