IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

CHRISTIE BURRELL, *on behalf of herself and those similarly situated*,	*	
Plaintiff,	*	
vs.	*	CASE NO. 3:15-cv-125(CDL)
TOPPERS INTERNATIONAL, INC., DARNELL LEWIS GARDNER, and SANDRA GARDNER,	*	
Defendants.	*	

O R D E R

On April 12, 2016, the Court granted Defendants' motion to set aside default. Order, Apr. 12, 2016, ECF No. 36. The Court granted the motion because no proper proof of service had been made to the Court and it was thus unclear whether any of the Defendants had been properly served. The Court also found that "Defendants promptly sought to respond to the default and promptly sought to point out the deficiencies in Plaintiffs' service and proofs of service" and that "setting aside the default would not result in unfair prejudice to Plaintiffs." *Id.* at 3. For all of these reasons, the Court concluded that good cause existed to set aside the default.

Plaintiffs filed a motion for reconsideration (ECF No. 44) more than forty days later, well past the fourteen-day deadline

set by Local Rule 7.6. In support of this motion, Plaintiffs point to amended certificates of service, which they contend show that two of the Defendants—Toppers International, Inc. and Darnell Lewis Gardner—were properly served more than twenty-one days before they filed their Answer and were thus in default. The Court reiterates its earlier conclusion: even if Plaintiffs had established that one or more of the Defendants was properly served and was in default, the Court would have set aside the default anyway because Defendants promptly sought to respond to the default and because setting aside the default would not result in unfair prejudice to Plaintiffs. For these reasons, Plaintiffs' motion for reconsideration is denied.

Plaintiffs' request for clarification on whether they must serve Defendant Sandra Gardner is moot because she has waived service.

IT IS SO ORDERED, this 17th day of June, 2016.

S/Clay D. Land
CLAY D. LAND
CHIEF U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA