

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ANDREW SCHLESINGER,
Plaintiff

CIVIL ACTION

VERSUS

NO. 13-6616

**VILLAGE SHOPPING CENTER
PARTNERSHIP,**
Defendant

SECTION "E"

ORDER AND REASONS

Plaintiff Andrew Schlesinger alleges various architectural barriers at Defendant Village Shopping Center Partnership's property violate the Americans With Disabilities Act. Defendant was served with the complaint and summons but did not file an answer. Four weeks after the answer was due, Plaintiff properly sought and obtained from the Clerk an entry of default.¹ Defendant now moves to set aside that entry of default and for leave to file an answer.²

The Court may set aside an entry of default for "good cause." Fed. R. Civ. P. 55(c). In assessing "good cause," the Court should consider three non-exclusive factors: (1) whether the failure to answer was willful, (2) whether setting aside the default would prejudice the opposing party, and (3) whether the defaulted party presents a meritorious defense. *See Lacy v. Sitel Corp.*, 227 F.3d 290, 292 (5th Cir. 2000).

Under these circumstances, the Court finds good cause to set aside the default. Defendant moved to set aside the default in a timely manner. Defendant was in contact with Plaintiff before the default was entered. *Cf. Lacy*, 227 F.3d at 292-93. Plaintiff will

¹ R. Docs. 5, 6.

² R. Doc. 8.

not be significantly prejudiced. *See In re One Parcel of Real Property*, 763 F.2d 181, 183 (5th Cir. 1985) ("That setting aside the default would delay forfeiture of the property if the government were to succeed at trial or would require the government to litigate the action is insufficient prejudice to require the default decree to stand."). And Defendant asserts various affirmative defenses in its proposed answer. Accordingly,

IT IS ORDERED that Defendant's motion is **GRANTED** and the proposed answer shall be filed into the record.

New Orleans, Louisiana, this 21st day of May, 2014


SUSIE MORGAN
UNITED STATES DISTRICT JUDGE