

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC.,
OXFORD UNIVERSITY PRESS, INC.,
SAGE PUBLICATIONS, INC., and
JOHN WILEY & SONS, INC.,

Civil Action No. 07-CV-12731

Plaintiffs,

Hon. Avern Cohn

vs.

Mag. Virginia Morgan

EXCEL RESEARCH GROUP, LLC d/b/a
EXCEL TEST PREPARATION,
COURSEPACKS & COPIES and
NORMAN MILLER, individually,

Defendants.

KARL V. FINK (P13429)
PEAR, SPERLING, EGGAN & DANIELS, P.C.
Attorney for Plaintiffs
24 Frank Lloyd Wright Drive
Ann Arbor, Michigan 48105
(734) 665-4441

DAVID A. NACHT (P47034)
NACHT & ASSOCIATES, P.C.
Attorney for Defendants
101 N. Main Street, Ste. 555
Ann Arbor, Michigan 48104
(734) 663-7550
dnacht@nachtlaw.com

DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS'
MOTION FOR DEFAULT JUDGMENT

In response to Plaintiffs' Motion for Default Judgment, Defendants state the following reasons that Plaintiffs' Motion should be dismissed:

According to Defendant Miller, there were two documents in the same envelope mailed from the Court. The second document was the notice of the status conference to be held on October 8, 2008. Inadvertently, Mr. Miller did not see the document that notified him to appear at the status conference until the deadline had passed.

Defendants acted diligently to obtain new counsel. In fact, new counsel for both Defendants filed an appearance on October 31, 2008. Thus, Defendants were only unrepresented for two-and-a-half weeks.

WHEREFORE, for the reasons stated above and those in the accompanying brief, Defendants respectfully request that this Court deny Plaintiffs' Motion for Default.

Respectfully submitted,
NACHT & ASSOCIATES, P.C.

s/David A. Nacht
DAVID A NACHT (P47034)
Attorney for Defendants
101 N. Main Street
Ann Arbor, Michigan 48104
(734) 663-7550
dnacht@nachtlaw.com

Dated: November 5, 2008

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2008, my paralegal, Courtney L. Ceci, electronically filed the foregoing documents with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Karl V. Fink and Amy C. Mainelli Burke.

Respectfully submitted,
NACHT & ASSOCIATES, P.C.

s/David A. Nacht
DAVID A. NACHT (P47034)
Attorney for Defendants
101 N. Main Street, Ste. 555
Ann Arbor, MI 48104
(734) 663-7550
dnacht@nachtlaw.com

Dated: November 5, 2008