

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KATHLEEN K. DOERR and ROBERT
DOERR, Wife and Husband,

Plaintiffs,

vs.

HARMS FARMS TRUCKING, INC.

Defendant.

7:13-CV-5008

MEMORANDUM AND ORDER

This matter is before the Court on the defendant's unopposed motion to set aside default (filing 10). Under [Fed. R. Civ. P. 55\(c\)](#), the Court may set aside an entry of default for good cause. When examining whether good cause exists, the Court weighs whether the conduct of the defaulting party was blameworthy or culpable, whether the defaulting party has a meritorious defense, and whether the other party would be prejudiced if the default were excused. *Stephenson v. El-Batrawi*, 524 F.3d 907, 912 (8th Cir. 2008).

The defendant explains that it submitted a claim to its insurance company and believed that its insurer was communicating with the plaintiffs' counsel regarding the claim, and that no responsive pleading was needed. After default was entered, the defendant obtained legal representation for this case, and defendant's counsel contacted plaintiffs' counsel to explain the situation. Plaintiffs have agreed not to oppose defendant's motion. Filing 10 at ¶¶ 5–7.

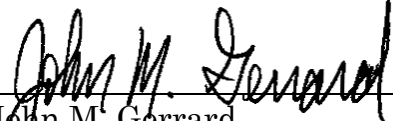
The Court finds that the defendant has shown good cause for setting aside the default. There was no culpable conduct on the defendant's part. And given the plaintiffs' lack of opposition, it is apparent they will not be prejudiced.

THEREFORE, IT IS ORDERED:

1. The defendant's motion to set aside default (filing 10) is granted.

Dated this 13th day of March, 2014.

BY THE COURT:



John M. Gerrard
United States District Judge