

contacts whatever with New Jersey. While Miller disputes this, it is clear that this is indeed a litigable defense, and a material issue that must be resolved by litigating the case.

As the Third Circuit has stated:

[T]his court does not favor entry of defaults or default judgments. We require doubtful cases to be resolved in favor of the party moving to set aside the default judgment so that cases may be decided on their merits.

United States v. \$55,518.05 in U.S. Currency, 728 F.2d 192, 194-195 (3d Cir. 1984). The Third Circuit has also stated:

Three factors control whether a default judgment should be granted: (1) prejudice to the plaintiff if default is denied, (2) whether the defendant appears to have a litigable defense, and (3) whether defendant's delay is due to culpable conduct.

Chamberlain v. Giampapa, 210 F.3d 154, 164 (3d Cir. 2000).

There are thus a number of reasons to deny the motion for default judgment and to vacate the Clerk's entry of default. Recom AG may not be subject to this Court's jurisdiction. The Third Circuit resolves questionable cases in favor of the party moving to set aside the default judgment so that cases may be decided on the merits. Moreover, Miller is not prejudiced by denying default judgment, Recom AG appears to have a litigable defense, and the delay is not due to culpable conduct. The motion for default judgment will be denied.

For these reasons,

IT IS on this 13th day of April, 2017,

ORDERED that Miller's motion for default judgment (Docket Entry No. 50) is **DENIED**; and it is further

ORDERED that the Clerk's entry of default as to Recom AG is **VACATED**.

/s Stanley R. Chesler
STANLEY R. CHESLER. U.S.D.J.