

The courts of appeals have “repeatedly expressed a strong preference that, as a general matter, defaults be avoided and that claims and defenses be disposed of on their merits.” *Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc.*, 616 F.3d 413, 417 (4th Cir. 2010). Counsel for


defendant contends that although defendant was served on May 9, 2017, counsel was not contacted about the complaint until June 7, 2017, after the time for filing an answer or other responsive pleading had expired.

Although default is plainly appropriate in this instance, the Court declines to enter default against defendant as the factors which would support setting aside the default are also present. *See id.*; Fed. R. Civ. P. 55(c). Defendant has acted with reasonable promptness, there is no history of dilatory action by defendant, and while defendant is personally responsible for failing to take timely action, counsel for defendant has promptly appeared and moved for leave to file an answer out of time. *See Payne ex rel. Estate of Calzada v. Brake*, 439 F.3d 198, 204 (4th Cir. 2006). In light of the foregoing factors and the strong preference for resolution of disputes on the merits, entry of default is not warranted here.

CONCLUSION

Accordingly, plaintiff's motion for entry of default [DE 6] is DENIED and defendant's motion for leave to file out of time [DE 8] is GRANTED. Defendant shall respond to plaintiff's complaint not later than October 5, 2017.

SO ORDERED, this 21 day of September, 2017.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE