

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**JORGE CORREA,**  
**Plaintiff**

v.

**CIVIL NO. 04-1706(DRD)**

**DON SUSO'S FOOD &  
CATERING SERVICES, et al.,**  
**Defendants**

MOTION	ORDER
<p><b>Date Filed: 09/09/05</b> <b>Docket #18</b> <input checked="" type="checkbox"/> <b>Plaintiff</b> <input type="checkbox"/> <b>Defendant</b> <b>Title:</b> Motion for Relieve of Judgment</p>	<p>Counsel for plaintiff has submitted evidence that service of process was duly effectuated within the term provided by Rule 4(m), FedR.Civ.P., 28 U.S.C.,. However, the Court notes that even relevant evidence has been provided showing compliance with the Rule, it does not relief counsel from timely complying with the Court's clearly communicated Orders. Counsel is forewarned. Pursuant to Rule 60(b)(6), the instant motion requesting relief from judgment has been made within a reasonable time. The Court notes that the rule shall be construed to recognize the policy as to deciding the cases on the merits rather than on a procedural issue. <u>Teamsters, Chauffeurs, Warehousemen and Helpers Union, Local No. 59 v. Superline Transportation Company, Inc.</u>, 953 F.2d 17, 19 (1<sup>st</sup> Cir. 1992). The circumstances to be considered by the Court include the length of the delay, the justification for it, and the prejudice (if any) associated with the granting of relief. <u>U.S. v. Bosch Oldsmobile, Inc.</u>, 909 F.2d 657, 661 (1<sup>st</sup> Cir. 1990). At this time, the Court deems that there is no apparent prejudice to the parties, and there is no delay since counsel moved quickly for relief after the entry of judgment. Hence, the Court rules that service by publication upon the co-defendants have been effectuated.</p> <p>Therefore, the Court <b>GRANTS</b> plaintiff's request to reopen the instant case, and since defendants have been served since March 26, 2005, the Clerk of Court is <b>INSTRUCTED</b> to <b>VACATE Default</b> against the co-defendants. Finally, a <b>Status Conference</b> is hereby scheduled for the <b>10<sup>th</sup> day of April 2006 at 5:30 p.m.</b></p>

**IT IS SO ORDERED.**

In San Juan, Puerto Rico this 13<sup>th</sup> day of March 2006.

**S/DANIEL R. DOMINGUEZ**  
**DANIEL R. DOMINGUEZ**  
**U.S. DISTRICT JUDGE**