

TDW-CUM-4/5/2012

McDonnell v. McDonnell, CV-11-487 (Superior Ct. Cumberland)

Plaintiff is seeking a default based on defendant's failure to file an answer to the amended complaint. Defendant has responded with a letter which may indicate that he was misinformed by the clerk's office as to what response he needed to file or at least that he misunderstood what was required.

Where defendant has appeared and is prepared to litigate the action, the court will not enter a default at this time. See Design Build of Maine v. Paul, 601 A.2d 1089, 1091 (Me. 1992). This is particularly true where any default would apply only to any claim added in the amended complaint. Id. Given that defendant's letter complains that he has not been informed of communications to the court – even though all of the submissions by plaintiff's counsel indicate that copies were sent to the defendant – the clerk shall convene a status conference to address all pending issues and future proceedings in this case.

The entry shall be:

Application for a default denied at this time. Procedural order entered. The Clerk is directed to incorporate this order in the docket by reference pursuant to Rule 79(a).

Dated: April 5, 2012



Thomas D. Warren
Justice, Superior Court

STATE OF MAINE
Cumberland County

APR 05 2012

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BRIAN J MCDONNELL VS STEPHEN B MCDONNELL

UTN:AOCSSr -2011-0109056

CASE #:PORSC-CV-2011-00487

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PL

RTND

11/03/2011