

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

KETAR, INC,

Plaintiff,

Case No. 14-142821-CK

v

Hon. Wendy Potts

BROTHERS ZEER, INC, et al,

Defendants.

OPINION AND ORDER RE: MOTION TO SET ASIDE DEFAULT JUDGMENT OR IN THE
ALTERNATIVE FOR RELIEF FROM JUDGMENT

At a session of Court
Held in Pontiac, Michigan

On

SEP 24 2015

Defendants Brothers Zeer, Inc., Zina Zeer, and Salwan Zeer move the Court to set aside a November 2014 default judgment entered against them. A default can be set aside only if Defendants show good cause and a meritorious defense. MCR 2.603(D)(1). “Good cause” means (1) a substantial irregularity or defect in the proceeding on which the default is based or (2) a reasonable excuse for failure to comply with the requirements that created the default. *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 233; 600 NW2d 638 (1999). The decision whether to set aside a default is discretionary. *Id* at 227.

Defendants have not demonstrated good cause for failing to timely answer the complaint. Plaintiff Ketar, Inc.’s proof of service states that it personally served Defendants with the complaint and summons on October 5, 2014, and Defendants admit that they were served “around the month of October 2014.” Other than their claimed language barrier, which Plaintiff

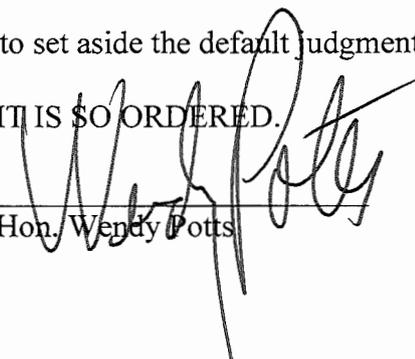
contests, Defendants cite no substantial irregularity or defect in the proceedings that prevented them timely answering the complaint.

Even if Defendants did have good cause for failing to answer, they cannot establish a meritorious defense to Plaintiff's claims. Defendants admit that they defaulted on their promissory note, and assert only that the amount of the judgment is inaccurate because it does not account for payments Defendants claim they made. However, Plaintiff's principal Amer Dado denies Defendants' claim and asserts in an affidavit that Defendants made no payments on the note. Although Defendants may believe they have a defense to Plaintiff's claims, they have not shown a meritorious defense. See *Shawl v Spence Bros, Inc*, 280 Mich App 213, 238; 760 NW2d 674 (2008).

For all of these reasons, the Court denies the motion to set aside the default judgment.

Dated: **SEP 24 2015**

IT IS SO ORDERED.


Hon. Wendy Potts