

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Mt. Hawley Insurance Company, §  
*Plaintiff,* §  
vs. § Civil Action H-06-2000  
§  
Epernay Community Association, *et al.*, §  
*Defendants.* §

**MEMORANDUM AND RECOMMENDATION**

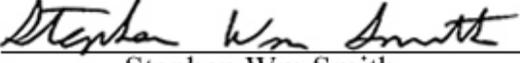
Before the court is plaintiff's request to enter default judgment against defendants Wade E. McKinney, Jr., Rebecca R. McKinney, Justin McKinney, and Daniel Broussard pursuant to Fed. R. Civ. P. 55 because defendants did not file an answer or other responsive pleading within 20 days of the date of service. (Dkt. 13). Three days after plaintiff's request for default judgment, defendants filed an answer on August 17, 2006. (Dkt. 14). Default judgment is generally disfavored and should not be granted solely because the defendant failed to meet a procedural time requirement. *Mason & Hanger-Silas Mason Co. v. Metal Trades Council*, 726 F.2d 166, 168 (5th Cir. 1984). Where defendants subsequently file an answer and plaintiff has not made any showing of prejudice, the court has discretion to deny a motion for entry of default judgment. *See id.*

At this time defendants have filed an answer and plaintiff has not made a showing of prejudice. Accordingly, this court recommends that plaintiff's request for entry of default judgment be denied.

The parties have ten days from service of this Memorandum and Recommendation to

file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* FED. R. CIV. P. 72.

Signed at Houston, Texas on September 19, 2006.

  
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Stephen Wm Smith  
United States Magistrate Judge