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CLERK OF COURT

By: 

IN THE SUPERIOR COURT OF GUAM

ALICE CHERRY SAITO,

Plaintiff,

Domestic Case No. DM0175-26

vs.

FRANCIA ANG IMBO,

Defendant.

**DECISION AND ORDER RE:
MOTION TO SET ASIDE ENTRY OF
DEFAULT AND FOR COURT TO ACCEPT
ANSWER AND COUNTERCLAIM FILED
JUNE 11, 2026**

INTRODUCTION

This matter came before the Honorable John C. Terlaje on July 30, 2026, for a Motion Hearing regarding Defendant's Motion to Set Aside Entry of Default and for Court to Accept Answer and Counterclaim filed June 11, 2026. Attorney Daniel Somerfleck appeared on behalf of Plaintiff, Alice Cherry Saito. Attorney Catherine Bejerana-Camacho appeared on behalf of Defendant, Francia Ang Imbo. After reviewing the record, relevant law, and arguments from the parties, the Court finds that the Entry of Default can be set aside. The Defendant's Motion to Set Aside Entry of Default and for the Court to Accept Answer and Counterclaim Filed June 11, 2026 is therefore **GRANTED**.

BACKGROUND

Saito filed her Complaint for Custody on May 14, 2026. Saito filed an Application for Default Judgment on June 10, 2026. On June 11, 2026, Saito filed a request for entry of default with the Clerk of Court.

1 Imbo filed his Verified Answer to Plaintiff's Complaint for Custody and Support and
2 Counterclaim on June 11, 2026. He then filed his Motion to Set Aside Entry of Default and for
3 Court to Accept Answer & Counterclaim Filed June 11, 2026 on June 15, 2026. Saito filed her
4 Opposition to Plaintiff's Motion to Set Aside Entry of Default on June 13, 2026. Imbo filed his
5 Reply to Saito's Opposition on July 27, 2026. The Court heard oral argument on the matter on
6 July 30, 2026.
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8 Imbo alleged that he failed to file his answer within the time allotted by the Guam Civil
9 Rules of Procedure because he misunderstood the rules. Decl. of Francis Ang Imbo at 3 (July
10 27, 2026). Imbo believed he needed to file the complaint within twenty (20) days of receiving
11 the Complaint, not when the Complaint was served. *Id.* The Complaint was served at Imbo's
12 parents' home, and he did not personally receive it until later. *Id.*
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15 DISCUSSION

16 "Default and default judgment are distinct and must be treated separately." *Adams v.*
17 *Duenas*, 1998 Guam 15 ¶ 5. "However. . . in reviewing entries of default courts will look to the
18 same grounds that are relevant in considering whether to set aside a default judgment." *Id.*
19 Grounds are more liberally construed when examining a motion to set aside an entry of default.
20 *Id.* "A court will deny a motion to set aside a default judgment if it is shown that (1) the
21 defendant's culpable conduct led to the default; (2) the defendant has no meritorious defense, or
22 (3) the plaintiff would be prejudiced if the judgment is set aside." *Midsea Industrial, Inc. v. HK*
23 *Engineering, Ltd.*, 1998 Guam 14 ¶ 5; *Adams*, 1998 Guam 15 ¶ 5.
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1 Here the Court will grant the motion to set aside entry of default because Saito has not
2 shown that Imbo's culpable conduct led to the default, that Imbo has no meritorious defense, or
3 that Saito would be prejudiced if the judgment is set aside.

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5 Saito has not shown that Imbo's culpable conduct led to the default because Imbo filed
6 his answer one day after the request to enter default. Saito argues that Imbo should have
7 understood the civil rules of procedure because of Imbo's experience with the criminal justice
8 system and the ongoing child support case between the parties. Pl.'s Opp. to Def.'s Mot. to Set
9 Aside Entry of Default & for Court to Accept Answer & Countercl. Filed June 11, 2026 ("Pl.'s
10 Opp.") at 3 (July 13, 2026). Imbo should indeed have filed his answer sooner, particularly
11 because he was represented by counsel. However, Imbo alleged that he misunderstood the rules
12 of civil procedure and was quick to file his answer. Imbo's prior experience with the court
13 system does not make him an expert on civil procedure, and he was quick to fix his
14 misunderstanding. Therefore, the Court finds it reasonable that Imbo misunderstood the timing
15 of service.
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18 Saito has not shown that Imbo has no meritorious defense. This case involves a matter
19 of child custody. *See* Compl. for Custody (May 14, 2026). Imbo and Saito share one minor
20 child. *Id.* at 1. Saito seeks to limit Imbo's visitation with that minor child. *See id.* Saito states
21 that Imbo has no defense because he has been an absent parent and that Imbo has harmed the
22 child. Pl.'s Opp. at 5. The Court has not yet heard the merits of this case. The allegations are
23 serious, and Imbo has not been granted an opportunity to defend himself. Saito's allegations are
24 factual in nature and not conclusions of law alone. Therefore, Imbo could bring forth a
25 meritorious defense and should be granted the opportunity to do so.
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1 Finally, Saito failed to show prejudice. At the hearing and in her Opposition, Saito
2 alleged that she would be prejudiced by the grant of this motion. *Id.* at 4–5. She stated she
3 would be prejudiced because she would have to go through the process of defending her claims
4 and potentially discussing a solution with Imbo. *Id.* These examples are not prejudice in the
5 sense meant by the Supreme Court. If Imbo had filed just a few days earlier, Saito would be
6 facing the same challenges. Imbo would have the opportunity to respond in trial to Saito’s
7 allegations or engage in a settlement process. That is the consequence of filing a custody action.
8 Therefore, Saito has not shown that she would suffer prejudice if the motion were granted.
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11 **CONCLUSION**

12 The Court **GRANTS** Defendant Francia Ang Imbo’s Motion to Set Aside Entry of Default
13 and for Court to Accept Answer and Counterclaim Filed June 11, 2026.
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16 **SO ORDERED**, this 10/22/26.
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21 **HONORABLE JOHN C. TERLAJE**
22 **Judge, Superior Court of Guam**
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