

State of Maine

YORK

SS.

SUPERIOR COURT

CV- 05 - 308

PAF -YOR- 3/14/2007

George Moore, et al

Plaintiffs

DONALD L. GARBRECHT
JUDGE

vs.
Brian McPeffer, Defendant

MAY 16 2007

ORDER

Breen Mountain International, Inc.
Third Party Defendant

This cause came on for hearing, and was argued by counsel, upon the motion of the parties.

The primary motion is the motion of the third-party defendant to set aside entry of default judgment based on claims that there was mistake, inadvertence or excusable neglect, see Rule 60(b)(1), or that the default judgment was void for lack of personal jurisdiction. Rule 60(b)(4). M.R. Civ.P.

Given the substantial delay in responding to the third-party complaint and ~~IT IS ORDERED~~ that: the complete absence of a good reason for the tardiness, relief under rule 60(b)(1) is not warranted.

While a lengthy opinion could be written, the claim under Rule 60(b)(4) also fails in light of the expansive interpretation of the constitutionally permissible extent of Maine's long-arm statute. See *Bickford v Onslow Memorial Hospital Foundation*, 2004 ME 111, 855 A.2d 1150. Also see *World-Wide Volkswagen Corp v Woodson*, 444 U.S. 286, 297-8 (1980) where the Supreme Court of the United States stated, "The forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State."

Third-party defendant's motion to set aside entry of default judgment is denied,
Third-party defendant's motion to strike defendant/third-party plaintiff's opposition is denied.

Third-party defendant's motion to strike plaintiff's opposition is dismissed as moot.

Dated: March 14, 2007

Paul L. Garbrecht

CV-19 rev. 6/82

James L. Audiffred, Esq. - PLS Justice, Superior Court
Philip M. Coffin, III, Esq. & Ivy Frignoca, Esq. - DEF
Jeffrey Edwards, Esq. & James C. Bush, Esq. - T/P DEF