

Goldsmith v O'Malley 30/4/02, Master Venning, HC Christchurch CP70/95

Successful application to have default judgment set aside - plaintiffs ("G") had a default judgment entered against defendants ("OM") after they filed no defence - OM sought to have default judgment set aside as it had been entered contrary to an agreement between the parties which allowed 21 days for filing of defence - G claimed OM did not have substantial grounds for a defence and the judgment was awarded accordingly.

Held, the judgment was obtained irregularly as it was in breach of an agreement between the parties and it was based on a statement of claim which does not accurately reflect G's claim against OM - judgment would have been set aside anyway because OM have a substantial argument on the pleadings - judgment obtained by default is set aside - application granted.